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## TRANSCRIPT OF RECORD

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### Supreme Court of the United States

OCTOBER TERM, 1945

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#### No. 418

JEROME F. DUGGAN, TRUSTEE OF THE ESTATES  
OF CHRISTOPHER ENGINEERING COMPANY,  
AND NATIONAL AIRCRAFT CORPORATION,  
PETITIONER,

vs.

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE  
OF NATIONAL AIRCRAFT CORPORATION

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#### No. 419

NATIONAL AIRCRAFT CORPORATION,  
PETITIONER,

vs.

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE  
OF NATIONAL AIRCRAFT CORPORATION

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ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SEVENTH CIRCUIT

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PETITION FOR CERTIORARI FILED SEPTEMBER 10, 1945.

CERTIORARI GRANTED NOVEMBER 5, 1945.

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1944.

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No.

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IN THE MATTER OF: NATIONAL AIRCRAFT CORPO-  
RATION, A CORPORATION, DEBTOR.

---

JEROME F. DUGGAN, TRUSTEE OF THE ESTATE OF  
CHRISTOPHER ENGINEERING COMPANY, A CORPORATION,  
*Petitioner,*

*vs.*

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE OF  
NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Respondent.*

---

NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Petitioner,*

*vs.*

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE OF  
NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Respondent.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SEVENTH CIRCUIT.

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TRANSCRIPT OF RECORD

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In the  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

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IN THE MATTER OF: NATIONAL AIRCRAFT CORPO-  
RATION, A CORPORATION, DEBTOR.

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JEROME F. DUGGAN, TRUSTEE OF THE ESTATE OF  
CHRISTOPHER ENGINEERING COMPANY, A CORPORATION,  
*Appellant,*

No. 8655.

*vs.*

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE OF  
NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Appellee.*

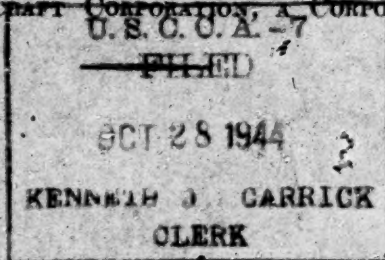
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NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Appellant,*

No. 8656.

*vs.*

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE OF  
NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Appellee.*



Appeals from the District Court of the United States for  
the Southern District of Indiana, Indianapolis Division.

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In the  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

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IN THE MATTER OF: NATIONAL AIRCRAFT CORPORATION, A CORPORATION, DEBTOR.

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JEROME F. DUGGAN, TRUSTEE OF THE ESTATE OF  
CHRISTOPHER ENGINEERING COMPANY, A CORPORATION,  
*Appellant,*  
**No. 8655.** *vs.*

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE OF  
NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Appellee.*

---

NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Appellant,*  
**No. 8656.** *vs.*

JAMES C. SANSBERRY, TRUSTEE OF THE ESTATE OF  
NATIONAL AIRCRAFT CORPORATION, A CORPORATION,  
*Appellee.*

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Appeals from the District Court of the United States for  
the Southern District of Indiana, Indianapolis Division.

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1      Pleas of the District Court of the United States for  
the Southern District of Indiana, at the United States  
Court House in the City of Indianapolis, in said District,  
before the Honorable Robert C. Baltzell, Judge of said  
District Court.

In the Matter of	} No. 9401 in
National Aircraft Corporation	
Bankrupt.	

Bankruptcy.

Be It Remembered that heretofore to-wit: at the May  
Term of said Court, on the 18th day of May, 1944, Before  
the Honorable Robert C. Baltzell, Judge of said Court the  
following proceedings in the above case were had, to wit:

The following is a copy of the Referee's Certificate On  
Review filed with the Clerk on May 18, 1944 and papers  
handed up with said certificate:

2 IN THE DISTRICT COURT OF THE UNITED STATES  
for the Southern District of Indiana,  
Indianapolis Division.

In the Matter of  
National Aircraft Corpo-  
ration,  
Bankrupt.

No. 9401 In  
Bankruptcy.

REFEREE'S CERTIFICATE ON REVIEW.

(Filed, May 18, 1944. Albert C. Sogemeier, Clerk.)

To the Honorable Robert C. Baltzell, Judge of Said Court:

I, Carl Wilde, one of the Referees in Bankruptcy of this Court, do hereby certify that the above cause was referred to me and that, in the course of its administration before me, the following question arose:

Whether sales of assets made by the Trustee in pursuance to an order entered by me, after hearing upon notice to all interested parties including Jerome F. Duggan, Trustee of Christopher Engineering Company, Joseph M. Brown, Secretary and Treasurer of the bankrupt and owner of one-half of its capital stock, and without objection on the part of said Duggan, Trustee, or said Brown, or any other interested party, should be approved and confirmed, the aggregate sales price of such assets being approximately \$9,000.00 in excess of the appraised value thereof and approximately \$16,000.00 in excess of the value placed thereon by said Brown in a computation prepared by him, of which a copy was furnished to the Referee.

3 On May 3, 1944 I entered an order approving a report filed by the Trustee of the sales of assets sold by him at public sale pursuant to order entered on April 6, 1944, and approving and confirming the sales reported by him, with certain exceptions, which order is in the words and figures following:



4 , IN THE DISTRICT COURT OF THE UNITED STATES.  
(Caption—9401)

At the continued hearing held May 2, 1944, pursuant to order entered herein on April 25, 1944, for the consideration of the report of sale filed by James C. Sansberry, Trustee in Bankruptcy herein, on April 21, 1944, the said Trustee appeared in person and by Isidore Feibleman of Bamberger & Feibleman, his attorneys, and the United States appeared by Paul A. Pfister, Assistant United States Attorney, and no creditors or other parties in interest appeared either in person or by attorney, and no cause was shown why the said report of sale should not be approved and the sales to the high bidders as therein reported, confirmed; and the Referee, having considered the evidence and being advised, finds that the assets offered for sale at the public sale held on April 20, 1944 are in the custody and control of the United States District Court for the Southern District of Indiana, and that no application for the release of said assets has been filed in said Court, and that title to said assets is in said

5 James C. Sansberry, as Trustee in Bankruptcy of the above named bankrupt; and the Referee further finds that said assets being in the custody and control of said Court, and the matter having been referred to the Referee, it is the duty of the Referee to determine whether or not said report of sale should be approved and the sales to the high bidders for the assets of the bankrupt confirmed, and that if said sale was fairly held and adequately attended, and said bids are adequate and reasonable, the sales to said bidders should be confirmed; and the Referee further finds that the aggregate amount bid for the property offered is substantially in excess of the appraised value thereof and very greatly in excess of the value fixed thereon by Joseph M. Brown, Secretary-Treasurer of the bankrupt, in his testimony at the first meeting of creditors, and that, with the exceptions hereinafter noted, said sales should be approved and confirmed; and accordingly, it is now

Ordered that said report of sale of the Trustee and the acts and doings of said Trustee by him therein reported be, and they are, approved; that the sale of the real estate described in said report, to Charles Green of Chicago, Illinois, for the sum of \$18,750.00 be, and it is, approved

and confirmed; that the sale of the one ton automobile truck to DeKalb Seed Company of DeKalb, Illinois, for \$1,350.00 be, and it is, approved and confirmed; that 6 the sale of the one and one-half ton truck to L. Hoffman of Peru, Indiana, for the sum of \$2,000.00 be, and it is, approved and confirmed; that the sale of the Airplane, referred to in the report of sale as Parcel 4, to F. Wambaugh of Elkhart, Indiana, for the sum of \$575.00 be, and it is, approved and confirmed; and that the sales of the personal property, when offered piecemeal, as reported by the Trustee and as shown in detail in the report of the auctioneer to the various high bidders therefore, be, and they are, approved and confirmed with the following exceptions: The sale of a heater, known as Lot No. 530, in the sum of \$20.00; the sale of the good will, which was included in Parcel No. 6 but was not designated by lot number, in the sum of \$140.00; the sale of said heater and of said good will being hereby expressly disapproved and the Trustee ordered to reject the bids therefor; the sales of all of said assets hereinabove confirmed to be free and clear of all liens and encumbrances except the property taxes upon said real estate for the year 1944, payable in 1945, to which said real estate is sold subject, all valid and subsisting liens and encumbrances of which said assets are sold free and clear to follow and attach to the proceeds derived from the sale thereof and to be paid therefrom.

It Is Further Ordered that the Trustee be, and is, 7 upon receipt of the purchase price of the assets sold and the sale whereof is herein confirmed, authorized and directed to deliver said property to the respective purchasers thereof and to execute such instruments as may be necessary to evidence the transfer of title thereto.

Dated at Indianapolis, Indiana, this the third day of May, 1944.

Carl Wilde,  
*Referee in Bankruptcy.*

CC  
James C. Sansberry,  
Conrad S. Arnkens,  
Bamberger & Feibleman,  
Paul A. Pfister,  
William C. Moore,  
Philip B. O'Neill,  
Hubert Hickam.

8 On May 10, 1944, Jerome F. Duggan, subscribing himself as Trustee of the Estate of Christopher Engineering Company, a corporation, and Trustee of the Estate of National Aircraft Corporation, a corporation pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, filed in the office of the Referee, by Phil O'Neill, attorney for said Duggan, Trustee of Christopher Engineering Company, his petition for the review of said order and also his petition for an order staying the enforcement thereof. Said petition for review was not filed in duplicate as required by Rule 19 of the Rules of the District Court of the United States for the Southern District of Indiana, and was not accompanied by brief in support thereof, as required by said Rule, and no copy of said petition for review was served upon James C. Sansberry, Trustee in Bankruptcy herein, or upon his attorneys, as required by Section 39c of the Bankruptcy Act of 1898, as amended. Nevertheless, in order to permit the matter to be brought before the Judge of the United States District Court for the Southern District of Indiana, despite the failure of said petitioner to comply with the applicable rule of Court and the provisions of the Bankruptcy Act, I granted the review.

9 On May 10, 1944, a petition for review of said order of May 3, 1944, purporting to be the petition of National Aircraft Corporation, by J. M. Brown, Secretary-Treasurer of said corporation, was filed by said Phil O'Neill, which petition likewise was not filed in duplicate as required by the Rule of Court aforesaid, and was not accompanied by brief as required by said Rule. No copy of said petition for review was served upon either the Trustee in Bankruptcy or his attorneys, but said Phil O'Neill, attorney for said Duggan, Trustee, and for said J. M. Brown, met said Trustee in Bankruptcy upon the street in Anderson, Indiana, and told him that he had filed such a petition and that the Trustee could borrow his office copy thereof to make a copy for his own use. In this matter also, despite the failure of the petitioner to comply with the applicable rule of Court and the provisions of the Bankruptcy Act, and despite the obvious incongruity of a corporation, which has been adjudicated a bankrupt and for whom a Trustee in Bankruptcy is acting and for

whom, according to the petition of Duggan, Trustee, a Trustee has been appointed in reorganization proceedings in bankruptcy, filing independently a petition for review. I granted the petition.

This certificate is filed in pursuance of the orders entered by me granting said petitions for review. Since the same order is involved in both petitions, I am filing only the one certificate, covering both petitions.

10

### Summary of the Evidence

The first meeting of creditors in this case was held on March 7, 1944. At that first meeting of creditors Joseph M. Brown, Secretary-Treasurer of the bankrupt, appeared and was examined under oath by me and by representatives of creditors present at the meeting. Brown testified that the bankrupt corporation was originally organized with local capital at Elwood, Indiana, and that in December, 1942, he and A. B. Christopher purchased all of its capital stock. Brown further testified that while the certificates were turned over to Jerome F. Duggan, Trustee of Christopher Engineering Company in a reorganization proceeding in St. Louis, there is no reason that he knows of why such capital stock should be considered as the property of Christopher Engineering Company instead of the property of himself and Christopher, individually. Brown testified that he and Christopher paid \$30,000.00 cash for the stock and put up an additional \$15,000.00 with the Citizens Bank of Elwood as guaranty for a \$50,000.00 loan with the Reconstruction Finance Corporation which, as he and Christopher understood, was about to foreclose; and that, in addition, he and Christopher took up \$13,000.00 in notes which the bankrupt corporation had outstanding. Brown testified that the total amount which he and Christopher paid was \$58,000.00,

but the bankrupt later repaid \$28,000.00 thereof.

11 Brown also testified that the corporation was, at the time of the first meeting, still indebted to the government to the extent of \$152,000.00, but was vague as to the details, attempting to describe a revolving fund arrangement between the corporation and the government. He estimated the total liabilities of the bankrupt at \$429,000.00 at that time. A computation which he had pre-

pared, and copies of which were furnished to the Trustee in Bankruptcy by said Brown, showed total assets of \$126,569.49. When asked whether the corporation was insolvent at the time he was giving his testimony, in the sense that the aggregate of its liabilities was in excess of its assets, Brown answered: "It looks to me like it is insolvent, but I would not care to express myself." Brown further testified that his stock in the bankrupt corporation was then in his name and not in the name of Christopher Engineering Company, but that he had pledged it to one Landau to secure a debt, putting up the stock as collateral.

At the first meeting of creditors Brown, who had present with him as attorneys, Phil O'Neill of Anderson, Indiana, who was also attorney for Duggan, Trustee, and Noah Weinstein and Sherman Landau, of St. Louis, Missouri, offered no objection to the appointment of a Trustee. Mr. O'Neill asked the representatives of creditors present whether they would be interested in having the assets of the bankrupt sold to a new corporation to be organized under the laws of the State of Indiana, it being proposed that the directors should be Sansberry, (the Trustee in Bankruptcy) Arnkens, (one of the attorneys for the Trustee in Bankruptcy) and O'Neill, (the attorney for Brown and for Duggan, Trustee). I examined a draft of the proposed plan, which contemplated the ultimate transfer of the assets from the corporation to be organized as aforesaid, to a second corporation. Brown was the moving spirit in this proposed plan, which, after examination and consultation with Brown's attorney, I pronounced unlawful, inequitable and one offering no security to creditors.

In stating this summary of the evidence, it is necessary to refer to matters of record. The involuntary petition in bankruptcy in this case was filed on January 21, 1944. A petition for the appointment of a Receiver in Bankruptcy was filed and was referred to me as Referee. I held a hearing at which Duggan, Trustee for Christopher Engineering Company, appeared by Hubert Hickam of Indianapolis, his attorney. The matter of the appointment of a Receiver was taken under advisement. On February 7, 1944, no answer to the involuntary petition having been filed and the statutory period having elapsed, the involuntary petition being unopposed, an order of adjudication was entered. Thereafter, on February 8, 1944, I entered



an order appointing James C. Sansberry as Receiver  
13 in Bankruptcy. No petition for the review of my  
order appointing a Receiver in Bankruptcy was filed  
although notice was given to Mr. Hickam, as attorney for  
Duggan, Trustee.

At the first meeting of creditors held on March 7, 1944,  
as aforesaid, Mr. Sansberry was elected Trustee in Bank-  
ruptcy and qualified as such by filing his bond in the  
amount required.

On March 21, 1944, Sansberry, Trustee, filed his peti-  
tion for an order authorizing him to offer for sale and to  
sell the tangible personal property and the real estate  
therein described, at public sale. In order to give all in-  
terested parties an opportunity to be heard in the matter,  
I refrained from entering an order of sale at that time,  
but entered an order directing that a meeting of the cred-  
itors be held on April 4, 1944, for the purpose of con-  
sidering said petition of the Trustee, directing that cred-  
itors and other parties in interest appear and show cause,  
if any they have, why said petition of the Trustee should  
not be granted and an order of sale entered as by him  
prayed. I further directed that notice of said meeting  
be sent to Jerome S. Duggan, Receiver for Christopher  
Engineering Company, Inc., and also to Pence, O'Neill &  
Diven, as attorneys for J. M. Brown, Secretary-Treasurer  
of the bankrupt. Such notices were sent to said parties.

At the meeting of creditors held on April 4, 1944, a num-  
ber of interested parties, including James C. Sansberry,

Trustee in Bankruptcy and his attorneys, the United  
14 States District Attorney representing the United  
States Army Air Force and the Collector of Internal  
Revenue, and others, appeared. The only objection to the  
sale was one filed by the United States Army Air Force,  
and such objection pertained only to certain personal prop-  
erty which was claimed by the United States Army Air  
Force, which asked that it be relinquished to it. An order  
directing the surrender of said property to the United  
States Army Air Force was entered. It was expressly  
stated on behalf of the United States Army Air Force  
that there was no objection to the entering of an order for  
the sale covering the other property of the bankrupt.  
Neither Duggan, Trustee, nor J. M. Brown, although noti-  
fied of the proceedings, appeared, and no objection what-  
ever was made to the entering of an order of sale.

On April 6, 1944, I entered an order directing that the real estate and all of the personal property of the bankrupt, with certain exceptions, be offered for sale at public sale on April 20, 1944, and granted the petition of the Trustee to employ an auctioneer to conduct such sale. Notice of the entering of the order of sale was sent to all known interested parties, including Duggan, Trustee, and Brown, on April 10, 1944. No petition for the review of the order of sale was filed. Immediately upon the entering of the order of sale, the Trustee and his attorneys, 15 and the auctioneer employed by the Trustee, and certain persons who had been employed by the Trustee to help preserve and protect the property of the bankrupt, commenced intensive preparations for the sale and very considerable expense was incurred in such preparations. Among the expenses incurred, in addition to those incident to lotting and parceling the personal property and preparing it for sale, was advertising, the sale being given paid publicity in newspapers in Chicago, Illinois, and Fort Wayne, Indianapolis, Marion, Muncie, Anderson, Elwood and Kokomo, Indiana. Some thirty-seven hundred circulars were sent to prospective purchasers by the auctioneer.

On the evening of April 19, 1944, the evening immediately preceding the sale, Brown notified Sansberry, Trustee, that he had obtained an injunction against the holding of the sale from the Judge of the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, in which Court the reorganization proceedings of Christopher Engineering Company were then pending. Brown showed Sansberry, Trustee, a purported copy of such injunction. According to such copy the injunction decree contained a finding that National Aircraft Corporation, the above named bankrupt, is a wholly owned subsidiary of Christopher Engineering Company, a finding directly at variance with the testimony of Brown at the first meeting of creditors. A 16 certified copy of the petition of National Aircraft Corporation, as a subsidiary of Christopher Engineering Company, filed in the proceedings for reorganization of the company last named in the Federal District Court in Missouri, and signed by Brown, recites that: "The majority of the capital stock of this subsidiary corporation having power to vote for the election of directors is

owned directly by the debtor or indirectly through nominees", there being no allegation that the National Aircraft Corporation is a wholly owned subsidiary of Christopher Engineering Company. According to the testimony of Brown at the first meeting of creditors of the bankrupt, National Aircraft Corporation is neither a wholly owned subsidiary of Christopher Engineering Company nor is a majority of its stock owned by that company.

The order directing the sale of the assets on April 20, 1944, directed that such sale commence at nine-thirty o'clock a. m. Just immediately prior to the beginning of the sale, James C. Sansberry, Trustee in Bankruptcy herein, and Adolph J. Winternitz, the auctioneer employed by the Trustee under my order, were served with copies of the injunction which Brown had exhibited to Sansberry on the preceding evening. Sansberry, Trustee, proceeded with the sale as he had been ordered to do. There were between three and four hundred prospective purchasers present and the bidding was spirited and the competition among bidders keen. The result was that the aggregate bids were slightly in excess of \$55,000.00 for assets which had been appraised at approximately \$45,000.00.

On April 21, 1944, James C. Sansberry, Trustee in Bankruptcy, filed his report of sale alleging that the sale was an advantageous one and should be approved and confirmed by the Court, and that all parties attending the sale had been notified that the matter of confirmation would come up before the Referee on April 25, 1944, at ten o'clock a. m., the Trustee praying that his acts in connection with the sale be approved by the Court, that the report be set down for hearing and that, after consideration and after due notice to the bankrupt and its officers, and to Duggan, Trustee, that the sales be approved and confirmed.

Upon the filing of this report, I entered an order assigning the matter of the approval and confirmation of the sales reported by the Trustee for hearing at ten o'clock a. m., on Tuesday, April 25, 1944, in Room 245 Federal Building, Indianapolis, Indiana, and requiring Duggan, Trustee of Christopher Engineering Company, J. M. Brown and all other persons in interest to appear and show cause why the sales reported by the Trustee should

not be approved and the Trustee, upon receipt of the 18 purchase price of the various items of property, authorized to deliver the same to the respective purchasers. Copies of the order assigning the matter for hearing were sent by mail to Duggan, Trustee, Brown, in care of Pence, O'Neill & Diven, his attorneys, (Phil O'Neill of said firm having, incidentally, been a bidder at the public sale held by the Trustee on April 20, 1944, for the assets in bulk, but such bid being approximately \$10,000.00 lower than the aggregate of the bids for the real estate offered separately and the personal property in lots and parcels) Hubert Hickam, attorney of record for Duggan, and Paul A. Pfister, Assistant United States Attorney, representing the United States Army Air Force.

At the time and place fixed for the hearing the Trustee appeared in person and by attorney, and the United States appeared by Paul A. Pfister, Assistant United States Attorney, but neither Duggan, Trustee, nor Brown, appeared, either in person or by attorney.

At the hearing of April 25, 1944, it was suggested that the Trustee and Isidore Feibleman of Bamberger & Feibleman, his attorneys, would, if thought advisable, proceed to St. Louis, Missouri, to ascertain the facts surrounding the entering of the injunction order, and thereupon continued the hearing until ten o'clock a. m., on Tuesday, May 2, 1944.

At the hearing held on May 2, 1944, the Trustee 19 and his attorneys appeared and said Paul A. Pfister,

Assistant United States Attorney, appeared, and no other parties in interest appeared and no objections to the approval and confirmation of the sales reported by the Trustee were filed. On the contrary, said Paul A. Pfister, appearing on behalf of both the United States Army Air Force and the Collector of Internal Revenue, who has large claims against the bankrupt's estate, recommended the approval and confirmation of the sales reported by the Trustee. The Trustee and his attorney, Isidore Feibleman, reported that they had made some examination of the records in St. Louis and had talked with various parties there but had not submitted themselves to the jurisdiction of the District Court for the Eastern Division of the Eastern Judicial District, all conferences having been entirely informal.

On the day following the continued hearing of May 2, 1944, I entered the order which the petitions for review allege to be erroneous.

### Findings of Fact.

I find the facts to be as follows:

The bankrupt is an Indiana corporation. It was engaged in the business of manufacturing airplane parts and its principal place of business and all of its assets were located at Elwood, Indiana. Upon an involuntary petition in bankruptcy filed on January 21, 1944, and to which no answer was filed although Jerome F. Dugan, Trustee of Christopher Engineering Company, was advised of the filing of said involuntary petition, an order of adjudication was entered on February 7, 1944.

After due and proper notice to all creditors and known parties in interest, the first meeting of creditors of the bankrupt was held in Indianapolis, Indiana, on March 7, 1944, and at said first meeting of creditors Joseph M. Brown, Secretary-Treasurer of the bankrupt, appeared and was examined under oath by the Referee and by various creditors and other parties in interest. The National Aircraft Corporation, at the time of the filing of the petition in bankruptcy against it, and at all subsequent times, was insolvent, the aggregate of its property at a fair valuation being insufficient in amount to pay its debts. The capital stock of the bankrupt corporation was the property of J. M. Brown and A. B. Christopher and said bankrupt corporation was not a subsidiary of Christopher Engineering Company.

21 Prior to bankruptcy, approximately \$15,000.00 had been deducted by the bankrupt from wages and salaries due its employees on account of Social Security and withholding taxes, and approximately \$1,400.00 had been retained from the pay of employees for the purchase of war bonds.

On February 8, 1944, James C. Sansberry of Anderson, Indiana, was appointed Receiver in Bankruptcy for the bankrupt. At that time there was approximately \$100.00 cash on hand and the \$15,000.00 that had been deducted from wages and salaries, as aforesaid, and the \$1,400.00 which had been deducted for the purchase of war bonds,



were not on hand and were not then, nor had been for a long period of time prior thereto, available for the payment of withholding and Social Security taxes and the purchase price of such war bonds.

The United States Army Air Force had been endeavoring for a long period of time, prior to the filing of the petition in bankruptcy, to obtain information from the books and records of the bankrupt concerning its transactions in connection with a contract between the bankrupt and the United States Army Air Force, and in connection with a subcontract with Howard Aircraft Corporation. The 22 books of the bankrupt were fragmentary and incomplete. No trial balance had been prepared since July 31, 1942. The employees of the bankrupt had not received their wages for a period of three weeks prior to the filing of the petition in bankruptcy.

Certain interests, known as the Christopher interests, including J. M. Brown, A. B. Christopher, Christopher Engineering Company, and Christopher Aircraft Corporation, are in the aggregate, indebted to the bankrupt in a net sum of approximately \$37,000.00.

On March 7, 1944, James C. Sansberry was appointed Trustee in Bankruptcy of and for the above named bankrupt. On March 10, 1944, said James C. Sansberry qualified by filing his bond as required, and said James C. Sansberry is now the duly appointed, qualified and acting Trustee in Bankruptcy. The sales of property made by said Trustee were made in accordance with the orders of the Referee in Bankruptcy to whom this proceeding was duly referred by the Judge of the United States District Court for the Southern District of Indiana. Since the appointment of the Receiver in Bankruptcy several thousand dollars have been expended in preserving the assets and property of the bankrupt and in preparing the same for sale and in effecting the sale thereof.

Prior to the filing of the petitions for review aforesaid, no petitions or any other pleadings had been filed in the office of the Referee or in the United States District Court for the Southern District of Indiana by Jerome F. Dugan, Trustee of Christopher Engineering Company, or by J. M. Brown, or by any other of the parties known as the Christopher interests, or by the bankrupt itself, although an order had been entered requiring the filing of sched-

ules by the bankrupt, notice whereof was given to said Joseph M. Brown, prior to the first meeting of creditors.

The public sale held by the Trustee on April 20, 1944, was widely publicized and well-attended, the bidding was spirited and the competition keen, and the bids reported by the Trustee were, in the aggregate, considerably in excess of the appraised values of the property offered for sale, and the sales to such bidders were advantageous and to the best interest of the estate and the creditors of the bankrupt.

I hand up herewith, for your information, the following:

1. Copy of findings of fact and conclusions of law, made and entered February 1, 1944, after hearing upon the petition for the appointment of a Receiver in Bankruptcy;
2. Copy of order entered February 1, 1944, deferring appointment of Receiver and restraining removal of assets;
3. Copy of order entered February 8, 1944, appointing James C. Sansberry Receiver in Bankruptcy;
4. Copy of Trustee's petition for sale of real and personal property, filed March 21, 1944;
5. Copy of order for hearing upon Trustee's petition to sell, notice whereof was given to Jerome S. Duggan, Receiver for Christopher Engineering Company, Inc., St. Louis, Missouri, and Pence, O'Neill & Diven, attorneys for J. M. Brown, Anderson, Indiana;
6. Copy of notice of hearing on Trustee's petition to sell, mailed on March 25, 1944;
7. Copy of order for sale of assets entered April 6, 1944;
8. Copy of notice of sale sent to creditors and interested parties, including Duggan, Trustee, and to attorneys for J. M. Brown, mailed on April 10, 1944;
9. Copy of Trustee's report of sale filed April 21, 1944;
10. Copy of order assigning matter of consideration of Trustee's report of sale for hearing on April 25, 1944;
11. Copy of order entered on April 25, 1944, continuing hearing on matter of approval of Trustee's report of sale to May 2, 1944.

The petitions for review are likewise herewith transmitted.

Concurrently with the filing of this certificate, I am

sending a copy thereof, complete except for the inclusion of a copy of the order of May 3, 1944, of each of the following: Phil O'Neill, attorney for Duggan, Trustee, and for Joseph M. Brown; James C. Sansberry, Trustee in Bankruptcy; Bamberger & Feibleman, attorneys for the Trustee in Bankruptcy; Conrad S. Arnikens, attorney for the Trustee in Bankruptcy; Paul A. Pfister, Assistant United States Attorney; and Hubert Hickam, attorney of record for Jerome F. Duggan, Trustee.

Dated at Indianapolis, Indiana, this the 18th day of May, 1944.

Respectfully submitted,

Carl Wilde,

*Referee in Bankruptcy.*

26 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption 9401) \* \*

On January 24, 1944, the petition of Lilly Varnish Company of Indianapolis, Indiana, a creditor of the above named alleged bankrupt, was referred to the undersigned Referee for consideration and, in the event such Receiver is appointed, for such proceedings as are required by the Acts of Congress relating to bankruptcy; and upon appropriate notice to interested parties, hearing upon said petition was held before the Referee on January 25, 1944; the petitioning creditors appearing at said hearing by Isidore Feibleman of Bamberger & Feibleman their attorney, Jerome F. Duggan, Trustee in a proceeding for the reorganization of a corporation pending in the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri, wherein Christopher Engineering Company, a corporation, is the debtor, appearing by Hubert Hickam of Barnes, Hickam, Pantzer & Boyd, his attorneys, and there also appearing W. A. O'Reilly, Assistant General Manager of National Aircraft Corporation, the alleged bankrupt; and said Isidore Feibleman, at the time of said hearing, asked leave to file an amended petition on behalf of said Lilly Varnish Company and such leave being granted, it was agreed  
27 that the evidence presented would apply to such amended petition; and such amended petition asking for the appointment of a Receiver and for a restraining

order was filed on January 27, 1944 and was, on that date, referred to the undersigned Referee to consider such petition and, in the event Receiver is appointed to take such proceedings thereon as are required by the Acts of Congress relating to bankruptcy; and the Referee having considered said amended petition and the evidence and the arguments of counsel now makes and files his findings of fact thereon, as follows:

### Findings of Fact.

1. Lilly Varnish Company is one of the petitioning creditors in this proceeding; the voluntary petition was filed on January 21, 1944, and determination thereon will necessarily not be made for some time.

2. The alleged bankrupt is an Indiana corporation, engaged in the business of manufacturing airplane parts, and its principal place of business and all of its assets are located at Elwood, Indiana.

3. Earl C. Reasoner was appointed Receiver by the Madison Circuit Court on January 19, 1944, at 10:00 A. M., by reason of the alleged bankrupt being in imminent danger of insolvency and unable to discharge its matured debts and obligations.

4. Said Earl C. Reasoner did not qualify as Receiver under appointment by the Madison Circuit Court, such qualification having been delayed by reason of a restraining order entered in the matter of Christopher Engineering Company, a corporation, debtor, in proceedings for reorganization of a corporation, No. 10947 in the District Court of the United States for the Eastern Division of the East Judicial District of Missouri being called to the attention of the Judge of said court after the appointment of said Receiver.

5. A copy of such restraining order was introduced in evidence in this matter as petitioners Exhibit No. 1 but the Findings of Fact and the Conclusions of Law upon which said restraining order was entered were not placed in evidence and have not been furnished this court.

6. According to the copy of the restraining order introduced in evidence, as aforesaid, said order was entered at 2:20 o'clock P. M. on January 19, 1944, which was subsequent to the appointment of said Earl C. Reasoner as Receiver by the Madison Circuit Court.

7. Said restraining order enjoins and restrains Charles C. Smith, Judge, Madison County Indiana Circuit Court, Anderson, Indiana, and Paul Grow, of Muncie, Indiana, plaintiff, in a certain cause wherein National Aircraft Corporation is defendant and which cause is pending in the Circuit Court of Madison County, Indiana, and all other persons from taking any steps or action whatsoever kind or nature interfering with or affecting the assets and property of the National Aircraft Corporation subject to the further orders of the court issuing said restraining order, and further orders that any persons holding or asserting any claim to any of the assets or property of said National Aircraft Corporation file or assert their said claims in said reorganization proceedings before said Court.

29 8. No evidence has been introduced showing that Christopher Engineering Company, debtor in said reorganization proceedings, is the owner of the capital stock of the alleged bankrupt.

9. Christopher Engineering Company, according to the books of the alleged bankrupt, is a creditor of the bankrupt but the interests, referred to as the Christopher interests, including J. M. Brown, A. B. Christopher and Christopher Engineering Company, are, in the aggregate indebted to the alleged bankrupt in the net sum of \$37,068.48.

10. There is no official or director of the alleged bankrupt located at Elwood, Indiana, where the manufacturing plant of the alleged bankrupt is located, or in this district, and the assets and property of the alleged bankrupt are in the custody and possession of said W. A. O'Reilly, Assistant General Manager; said W. A. O'Reilly does not know who actually owns the stock of the alleged bankrupt but knows that said Brown and said Christopher who are connected with said Christopher Company are both directors.

11. The alleged bankrupt has a balance of \$40.00 in its bank account in the Citizens Bank of Elwood, Indiana, and such balance constituted its entire cash assets at the time of said hearing.

12. The employees of the bankrupt have not been paid for a period of some three weeks; certain office furniture, fixtures, raw materials and saws and small drills were recently sold for approximately \$700.00 for the purpose of



liquidating part of the then past due payroll, but  
30 three complete weeks' pay are still owing the employees; there are four watchmen employed at the plant at the rate of \$7½ per hour and these watchmen have also not been paid for a period of three weeks; approximately \$15,000.00 has been deducted from wages and salaries due employees by the alleged bankrupt on account of social security and withholding taxes but none of the money so deducted is now on hand; approximately \$1,400.00 was retained from the pay of employees for the purchase of war bonds but such war bonds have not been purchased and the money so retained is not on hand.

13. The alleged bankrupt's plant including the contents and automobile trucks, are covered by insurance aggregating approximately \$75,000.00; such insurance was written by Frank E. DeHority & Son of Elwood, Indiana, and there is an unpaid balance of premium of \$1,425.85 owing thereon and said insurance will be cancelled unless such premium is promptly paid.

14. The books and records of the alleged bankrupt are fragmentary and incomplete; the latest trial balance was made as of July 31, 1942; the alleged bankrupt had contractual relations with the United States Government and has received substantial amounts of money from the Government under such contracts; representatives of the Government have repeatedly sought in vain to obtain access to company books and records.

15. The corporate minutes and stock records of the alleged bankrupt are not at Elwood, Indiana, and are not in this district.

31 16. The real estate and buildings of the alleged bankrupt are carried on its books at \$42,613.19 and the machinery and equipment at \$34,228.40; the real estate is encumbered by certain liens in an unknown amount but not exceeding \$1,000.00; the receivables, other than those owing by the Christopher interests, amount to between \$28,000.00 and \$30,000.00 and, of these an amount between \$8,500.00 and \$10,000.00 will probably be paid in the near future and will permit the liquidation of the amounts directly owing the employees for past due wages.

17. The assets of the alleged bankrupt in this jurisdiction are in danger of loss and deterioration.

**Conclusions of Law.**

Upon the facts as above found, the Referee concludes that in view of the restraining order issued by the United States District Court for the Eastern Division of the Eastern District of Missouri, the matter of appointing a Receiver in Bankruptcy should be held under advisement and deferred for the time being but that an order should be entered restraining the alleged bankrupt, its officers, employees and agents, and all other persons from removing or permitting to be removed any of the assets of the alleged bankrupt situate in this district and from preventing the payment to the offices of the alleged bankrupt at Elwood, Indiana, of any sums due and payable to it by any person, firm or corporation and from diverting such payments elsewhere; and also from disbursing any 32 moneys coming into the hands of the alleged bankrupt, its officers, agents or representatives except as may be ordered by this court.

Dated at Indianapolis, Indiana, this the first day of February, 1944.

/s/ Carl Wilde,  
*Referee in Bankruptcy.*

CC

Bamberger & Feibleman  
Barnes, Hickam, Pantzer & Boyd  
W. A. O'Reilly.

33 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—9401)

**RESTRAINING ORDER.**

The amended petition for the appointment of a Receiver and for a restraining order of Lilly Varnish Company, one of the petitioning creditors herein, filed January 27, 1944, having been referred to the undersigned Referee by an order of reference entered January 27, 1944, and the Referee having heard evidence and being advised and having entered his Findings of Facts and the Conclusions of Law in the premises, which Findings of Facts

and Conclusions of Law are in the words and figures following, to-wit: (Here insert).

It Is Now Ordered that the matter of appointing a Receiver in Bankruptcy as prayed in said petition be, and it is, taken under advisement and deferred for the time being.

It Is Further Ordered that National Aircraft Corporation, its officers, employees and agents and all other persons be, and they are, enjoined and restrained, pending the further order of this Court, from removing any of the assets of the alleged bankrupt from this Judicial District and from disbursing, without the further order of this Court, any sums due and payable to it by any person, firm or corporation and from diverting such payments elsewhere; and also from disbursing any moneys coming into the hands of the alleged bankrupt, its officers, agents or representatives except as may be ordered by this Court.

Dated at Indianapolis, Indiana, this the 1st day of February, 1944.

(Signed) Carl Wilde,  
*Referee in Bankruptcy.*

CC

Bamberger & Feibleman,  
Barnes, Hickam, Pantzer & Boyd  
W. A. O'Reilly.

35 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—9401)

There having been filed in the office of the Referee this day a copy of an order adjudicating the above named National Aircraft Corporation a bankrupt under the act of Congress relating to bankruptcy, together with an order of general reference referring the proceeding to the undersigned as Referee in Bankruptcy; and an order having been entered herein on February 1, 1944, taking under advisement and deferring for the time being the matter of appointing a Receiver in Bankruptcy as prayed in the petition of Lilly Varnish Company; the Referee having given further consideration to the said petition for the appointment of a Receiver, and the Findings of Fact entered here-

in on February 1, 1944, now finds that it is absolutely necessary in order to protect and preserve the assets of the above named bankrupt that a Receiver in Bankruptcy be appointed as prayed in said petition; and accordingly, it is now

Ordered that James C. Sansberry of Anderson, Indiana, be, and he is, appointed Receiver in Bankruptcy of and for the above named bankrupt.

It Is Further Ordered that said Receiver in Bankruptcy take into his custody and possession all of the property of the above named bankrupt which may be found in this district; that he take all steps necessary for the preservation and protection of the same, including the effecting or keeping in effect necessary insurances; that he proceed with all possible dispatch to collect the amounts receivable of the bankrupt; that he employ such assistants as may be necessary to protect and preserve the property of the bankrupt and to continue with the collection of accounts receivable; and that if he shall determine upon sufficient investigation that there should be any operation of the bankrupt's business, that he so report whereupon an appropriate order may be entered.

It Is Further Ordered that before entering upon his duties as such Receiver in Bankruptcy said James C. Sansberry furnish bond in the penal sum of \$5,000.00 with surety approved by the undersigned, the obligation of said bond to run to the United States, and said bond to be conditioned upon the faithful performance of said James C. Sansberry of his duties as Receiver in Bankruptcy herein.

It Is Further Ordered that the Citizens Bank of Elwood, Indiana, be, and it is, designated as the depository for the moneys coming into the hands of said Receiver up to but not exceeding the sum of \$5,000.00 and that, in respect to all moneys in excess of \$5,000.00 coming into the hands of said Receiver The Union Trust Company of Indianapolis, be, and it is, designated as such depository.

And comes now said James C. Sansberry and presents his bond in the penal sum of \$5,000.00, conditioned upon the faithful performance of his duties as Receiver in Bankruptcy, with American Bonding Company of Baltimore, Maryland, as surety thereon, and the same having been examined by the Referee, is now approved and ordered filed in the office of the Clerk of the Court.

Dated at Indianapolis, Indiana, this the 8th day of February, 1944.

(Signed) Carl Wilde,  
Referee in Bankruptcy.

CC

Bamberger & Feibleman  
James C. Sansberry  
Barnes, Hickam, Pantzer & Boyd  
W. A. O'Reilly, National Aircraft Corp.  
National Aircraft Corporation  
Paul Pfister, Asst. U. S. Dist. Atty.

38 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—9401) \* \* \*

### PETITION FOR SALE OF REAL AND PERSONAL PROPERTY.

To the Hon. Carl Wilde, Referee:

1. James C. Sansberry respectfully shows to the Court that he is the duly qualified and acting Trustee herein.

2. That he has heretofore filed his inventory and appraisement of both the real and personal property belonging to said estate, which inventory and appraisement is now on file in this Court.

3. That the assets of said bankrupt corporation, in the hands of said Trustee, are of such a nature that it is highly desirable that the same be sold at the earliest possible convenient time, the same depreciating in value as time elapses, because of their particular adaptation to use in the aircraft industry and further, that such facilities are badly needed in defense industries, and that for both of these reasons, said Trustee respectfully shows to the Court that it is highly advisable that the same be sold without further delay.

4. That all of the tangible personal property heretofore inventoried and appraised herein, with the exception of so much of the office equipment as the Trustee deems necessary to retain, in order to further carry on the administration of this trust, together with the following parcels of real estate, situate in Madison County, Indiana:

39 Commencing at a point 173.2 feet West of a point in the West side of 9th Street, which is 926 feet North of the North line of North "D" Street, all in the city of Elwood, Indiana; thence West 112 feet; thence North parallel with the West line of said 9th Street, 284 feet; thence East 86.2 feet to the Southerly side of the P.C.C. & St. L. R.R. right-of-way; thence Southeasterly on and along said right-of-way line 35 feet to a point due North of the place of beginning; thence South 259.8 feet to the place of beginning.

And also, commencing at a point in the West side of 9th Street, 416 feet North of the North line of North "D" Street, all in the city of Elwood, Indiana; thence West 173.2 feet; thence North parallel with the West side of said 9th Street, 769.8 feet to the Southerly side of the P.C.C. & St. L. R.R. Company right-of-way; thence Southeasterly on and along said right-of-way line 236 feet to the West line of said 9th Street; thence South on and along the West side of said 9th Street, 608 feet to the place of beginning.

Both parcels being part of Section Nine (9), Township Twenty-one (21) North of Range Six (6) East, and excepting therefrom the right-of-way of the P.C.C. & St. L. R.R. Company upon and along the West side of said real estate;

be sold at public sale, on the premises of the bankrupt at Elwood, Indiana, to the highest cash bidder, or bidders, therefor, in their entirety, or in lots and parcels, whichever may prove to the best interests of this estate and such sale, or sales, to be subject to the approval of this Court, at such time and place, and subject to such notice as this Court may see fit to designate.

5. That the real estate referred to hereinabove should be sold free and clear of all liens and encumbrances, with the exception of the 1943 taxes, due and payable in 1944, and taxes due and payable thereafter.

40 6. That your Trustee be authorized to execute any and all contracts, bills of sale, deeds, and other instruments necessary to consummate such sale, or sales, if, as, and when made.

7. That the real estate referred to hereinabove is burdened with certain mechanics' liens, in the approximate sum of Twenty-five Hundred Dollars (\$2500.00), and that due provision should be made in said order of sale for the payment and satisfaction of said liens, from the



proceeds of said real estate, before intermingling said funds with the other funds belonging to said estate.

8. Your Trustee would further show to the Court that there are among the assets of said estate, as shown by schedule heretofore filed herein, and designated as Lots 176 and 177, two Motor Trucks, which are held by the bankrupt under conditional sale contracts, on which the approximate balance due and owing thereon is \$1340.00, and that any provision in the sale of said assets should provide for the separate sale of said trucks in such manner that the estate may have the benefit of any equity therein.

9. That authority should be given your Trustee, authorizing and directing him to employ, if he deems such employment necessary and advisable, an auctioneer to conduct said sale, the compensation of said auctioneer to be fixed by this Court.

Wherefore, your Trustee prays for an order, authorizing and directing him to offer for sale, and sell, the 41 tangible personal property and real estate referred to hereinabove, in the manner, time and place referred to hereinabove; to execute any and all contracts, deeds, bills of sale, and other instruments, necessary to consummate such sales, if, as and when made, and to employ the services of an auctioneer, and for such other and further order as this Court may deem proper and advisable.

James C. Sansberry,  
*Trustee in Bankruptcy.*

State of Indiana, }  
Marion County. } ss:

James C. Sansberry, being duly sworn upon his oath, deposes and says that he has read the allegations of the foregoing petition, and that the same are true and correct, according to the best of his knowledge, information and belief.

James C. Sansberry.

Subscribed and sworn to before me this 23rd day of March, 1944.

Josephine M. Leach,  
*Notary Public.*

My Commission expires: September 19, 1944.

42 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—9401)

Comes now James C. Sansberry, Trustee herein and files his petition for an order authorizing and directing him to offer for sale and to sell the tangible personal property referred to in his petition and the real estate therein described at public sale and to employ the services of an auctioneer, which petition is in the words and figures following, to-wit (here insert) and the Referee having considered said petition and having heard said Trustee and his attorney's, no other parties having notice or being represented, now finds that said petition should be considered at a meeting of creditors held for the purpose of considering the same; and accordingly, it is now

Ordered that a meeting of the creditors of the above named bankrupt be held at ten o'clock a. m., Central War Time, on Tuesday, April 4, 1944, in Room 245 Federal Building, Indianapolis, Indiana, for the purpose of considering said petition of the Trustee, at which time and place creditors and other parties in interest may appear and show cause, if any they have, why said petition of the Trustee should not be granted and an order of sale entered as in said petition prayed; and that, pending the holding of such hearing, the matter of the Trustee's request and authority to employ an auctioneer be taken under advisement.

It Is Further Ordered that notice of said meeting be given to all known creditors or the bankrupt by mail, by the Referee, at their addresses as the same appear in  
43 list of creditors filed herein by the Receiver in Bankruptcy or as such addresses appear upon the claims of creditors filed herein or upon other papers in this case, and that such notice be likewise sent to one Jerome S. Duggan, Receiver for Christopher Engineering Company, Inc., Wainwright Building, St. Louis, Missouri, and to Pence, O'Neill & Diven, attorneys at law, Anderson, Indiana, attorneys for J. M. Brown, Secretary-Treasurer of the bankrupt, which notices shall be mailed not less than ten days before the time fixed for said meeting.

Dated at Indianapolis, Indiana, this the 25th day of March, 1944.

(s/ Carl Wilde,  
Referee in Bankruptcy.

CC

James C. Sansberry  
Conrad S. Arnkens  
Bamberger & Feibleman  
Paul Pfister, Asst. U.S. District Atty.

44 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—9401)

To the creditors of the above named bankrupt:

You, and each of you, are hereby notified that James C. Sansberry, Trustee in Bankruptcy herein, has filed his petition alleging that the assets of the bankrupt should be sold at the earliest possible convenient time as they are depreciating in value as time elapses, by reason of their adaptation to use in the aircraft industry, and also because such facilities are badly needed in defense industries. In his petition the Trustee states that the personal property, except certain office equipment which he considers it necessary to retain in order to carry on the administration of this trust, together with the following parcels of real estate situate in Madison County, Indiana:

Commencing at a point 173.2 feet West of a point in the West side of 9th Street, which is 926 feet North of the North line of North "D" Street, all in the city of Elwood, Indiana; thence West 112 feet; thence North parallel with the West line, of said 9th Street, 284 feet; thence East 86.2 feet to the Southerly side of the P. C. C. & St. L. R. R. right-of-way; thence Southeasterly on and along said right-of-way line 35 feet to a point due North of the place of beginning; thence South 259.8 feet to the place of beginning:

And also, commencing at a point in the West side of 9th Street, 416 feet North of the North line of North "D" Street; all in the city of Elwood, Indiana; thence West 173.2 feet; thence North parallel with the West side of said 9th Street, 769.8 feet to the Southerly side of the P. C. C. & St. L. R. R. Company right-of-way; thence Southeasterly on and along said right-of-way line 236 feet

to the West line of said 9th Street; thence South on and along the West side of said 9th Street, 608 feet to the place of beginning.

Both parcels being part of Section Nine (9), Township Twenty-one (21) North of Range Six (6) East, and excepting therefrom the right-of-way of the P. C. C. & St. L. R. R. Company upon and along the West side of said real estate.

should be sold at public sale on the premises of the bankrupt at Elwood, Indiana, to the highest cash bidder or bidders, in their entirety, or in lots and parcels, whichever may prove to the best interests of this estate, sale or sales to be subject to the approval of this Court, the real estate to be sold free and clear of all liens and encumbrances with the exception of the 1943 taxes thereon, due and payable in 1944, and the taxes thereon thereafter due and payable. The Trustee also alleges that the real estate is burdened with mechanics' liens in the approximate sum of \$2,500.00 and that provision should be made in the order of sale for the payment and satisfaction of said liens, from the proceeds of said real estate. The Trustee further alleges that among the assets are two motor trucks held by the bankrupt under conditional sales contracts on which the approximate balance due and owing is \$1,340.00 and that said trucks should be ordered sold in such manner that the estate may have the benefit of any equity therein.

You are further notified that an order has been entered directing that a meeting of creditors and other persons in interest be held, for the consideration of said petition of the Trustee, at ten o'clock a. m., Central War Time, on Tuesday, April 4, 1944, in Room 245 Federal Building, Indianapolis, Indiana, at which time and place creditors and other persons in interest may appear and show cause, if any they have, why said petition of the Trustee should not be granted and an order of sale entered as therein prayed.

Said petition of the Trustee and the inventory and appraisal of the personal property of this estate are on file in the office of the undersigned Referee and may there be inspected by all parties interested.

Carl Wilde,

Referee in Bankruptcy.

Indianapolis, Indiana, March 25, 1944.

46 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—9401) \*

At a meeting of the creditors of the above named bankrupt, held in the Referee's Room, Number 245 Federal Building, Indianapolis, Indiana, at ten o'clock A. M., Central War Time, on Tuesday, April 4, 1944 for the purpose of considering the petition of James C. Saasberry, Trustee in Bankruptcy, filed herein, praying that an order be entered, authorizing the sale of certain real and personal property belonging to this estate and in said petition described, which meeting was held pursuant to notice given to all creditors and persons in interest, by mail, by the Referee on March 25, 1944, to appear and show cause, if any there be, why said petition of the Trustee should not be granted, and order of sale entered as therein prayed; the said Trustee appeared in person and by Conrad S. Arnkens and Isidore Feibleman, of Bamberger & Feibleman, said Trustee's attorneys, and the United States of America appeared by Paul A. Pfister, Assistant United States Attorney, and Major William C. Moore, Litigation Officer Fifth Service Command.

At said meeting no cause was shown by the United States Government, or by any other person or persons, why the real and personal property described in the petition of the Trustee, should not be ordered sold, as prayed, after the Trustee's showing that certain personal property, claimed by the United States of America, was not included in inventory and appraisement, or its sale contemplated in connection with order entered upon his said petition, excepting that, as to taxes, it was indicated that the real estate should be sold subject to, or free and clear from the lien of the taxes for the year 1943, payable in 1944, in accordance with whichever method was most advantageous to the estate.

The Referee having heard the Trustee herein and his counsel, and the Attorneys representing the United States of America and being advised in the premises, finds that it is to the best interests of the creditors of the bankrupt that the real property, hereinafter described, and the personal property belonging to said bankrupt estate, included in the Trustee's petition, be sold at public sale, in accord-

ance with the prayer of the Trustee's petition, and that said petition be granted, excepting as to the possible exclusion from said sale of one airplane and variation as to sale of real estate subject to taxes for the year 1943, and accordingly, it is now

Ordered, Adjudged and Decreed:

That James C. Sansberry, as Trustee in Bankruptcy of National Aircraft Corporation, Bankrupt, be, and he is, hereby directed and empowered to sell and dispose of the real property hereinafter described, and the personal property belonging to said bankrupt estate, as set forth in said Trustee's petition, with the exceptions hereinafter made, at public sale on the premises heretofore occupied

by said bankrupt at Number 450 North Ninth Street, 47 in the City of Elwood, Indiana, on the 20th day of

April, 1944, at 9:30 o'clock, A. M., Central War Time, and if necessary, to continue said sale from day to day thereafter, until said real estate and all of said personal property shall have been sold, the real estate to be sold subject to property taxes thereon for the year 1943, payable in 1944, or free and clear therefrom, in accordance with whichever method shall be more advantageous to the estate, but the same to be sold subject to the taxes for the year 1944, payable in 1945, and said real estate also to be sold free and clear from the lien of certain mechanics' and materialmen's liens which, if valid, shall be transferred to the fund derived from the sale.

That said real estate, so ordered sold, is the following described real estate, located and situate in Madison County, Indiana, to-wit:

Commencing at a point 173.2 feet West of a point in the West side of 9th Street, which is 926 feet North of the North line of North "D" Street, all in the city of Elwood, Indiana; thence West 112 feet; thence North parallel with the West line of said 9th Street, 284 feet; thence East 86.2 feet to the Southerly side of the P. C. C. & St. L. R. R. right-of-way; thence Southeasterly on and along said right-of-way line 35 feet to a point due North of the place of beginning; thence South 259.8 feet to the place of beginning.

And also, commencing at a point in the West side of 9th Street, 416 feet North of the North line of North "D" Street, all in the city of Elwood, Indiana; thence West



173.2 feet; thence North parallel with the West side of said 9th Street, 769.8 feet to the Southerly side of the P. C. C. & St. L. R. R. Company right-of-way; thence Southeasterly on and along said right-of-way line 236 feet to the West line of said 9th Street; thence South on and along the West side of said 9th Street, 608 feet to the place of beginning.

Both parcels being part of Section Nine (9), Township Twenty-one (21) North of Range Six (6) East, and excepting therefrom the right-of-way of the P. C. C. & St. L. R. R. Company upon and along the West side of said real estate.

That the tangible personal property so ordered sold, includes all of the personal property heretofore inventoried and appraised herein, which inventory and appraisement are on file in the office of the Referee, with the exception of one airplane unless certificate of title thereto is received prior to the time of sale, and also with the exception of so much of the office equipment as the Trustee deems necessary to retain, in order to carry on further the administration of this trust, which office furniture has been removed from said premises. That there shall also be included in said sale the good will of the business of said bankrupt.

That there shall also be excluded from said sale the personal property, possession of which is claimed by the United States of America, and concerning which order has been entered contemporaneously herewith.

48 That said real and personal property shall be sold for cash, to the highest bidder or bidders, and that the method of sale shall be as follows:

That all of the real and personal property included in this sale, excepting two motor trucks hereinafter mentioned, together with the good will of said business, shall first be offered as an entirety; then the real estate shall be offered separately, and all personal property, with the same exception, together with the good will of said business, shall be offered as an entirety; then the personal property shall be offered for sale piecemeal, and sale shall be made upon the basis most advantageous to the estate.

That among the assets of said estate, designated as Lots 176 and 177 in the inventory and appraisement filed herein,

are two motor trucks held under conditional sale contracts, upon which the approximate balance due and owing thereon is \$1340.00, and that the sale of said trucks should be made separately and they should be sold, in case the best bid therefor exceeds the amount owing thereon, which shall thereupon be paid. &

*It Is Further Ordered:*

That notice of such sale be given by mail by the Referee to all known creditors of the bankrupt, and all other known parties in interest, at their addresses as the same appear in the records in the office of the Referee, not less than ten days before the time fixed for said public sale, and that the Trustee cause notice of the sale of said real and personal property to be given by publishing the same at least one time in a newspaper of general circulation in the City of Indianapolis, Indiana, not less than ten days prior to the date of said sale, and that he give such other and further notice by publication, or otherwise, and make such other advertisement thereof, as he shall deem necessary and desirable.

*It Is Further Ordered:*

That said Trustee be, and he is, hereby authorized and empowered to employ an auctioneer to arrange and lot the personal property, and to conduct the sale of said real estate and personal property, subject to his supervision, said auctioneer to be one qualified in accordance with the provisions of the Chandler Act, and the compensation of said auctioneer to be hereafter fixed by this Court, not to exceed a sum equal to five percent (5%) of the proceeds of sale or sales, and proper and reasonable expenses of said auctioneer to be paid in addition.

*It Is Further Ordered:*

That the Trustee make due report of his proceedings hereunder to the Referee, sales to be subject to approval.

All of which is Ordered, Adjudged and Decreed by the Court.

Dated at Indianapolis, Indiana, this 6th day of April, 1944.

(Signed) Carl Wilde,  
*Referee in Bankruptcy.*

49 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—9401) \* \*

### NOTICE TO CREDITORS.

To all creditors of the above named bankrupt and all other parties in interest: C

You and each of you are hereby notified that an Order of Sale has been entered in this Cause, following the hearing held on April 4, 1944, for the consideration of the Trustee's petition for such order.

The Order of Sale directs that the Trustee shall offer for sale at public auction the real estate of the bankrupt (description whereof was set forth in the notice sent to creditors under date of March 25, 1944) and all of the tangible personal property except certain office furniture and equipment which will be needed by the Trustee in the further administration of the estate and which has been removed from the premises, and an airplane, which latter will not be offered for sale unless Certificate of Title thereto is received prior to the time of sale. In addition to the tangible personal property, the Trustee will also offer for sale the good will of the business of the bankrupt.

The sale will take place at the premises of the bankrupt at No. 450 North 9th Street, Elwood, Indiana, beginning at 9:30 o'clock a.m. Central War Time on Thursday, April 20, 1944, and will continue, if necessary, from day to day thereafter until the property has been sold.

The real estate will be sold subject to property taxes thereon for the year 1943 payable in 1944, or free and clear therefrom, whichever is more advantageous to the estate, and the real estate will be sold free and clear from the lien of certain mechanics' and materialmen's liens which, if valid, will be transferred to the fund derived from the sale. The real estate will be sold subject to the lien of the property taxes thereon for 1944 payable in 1945. The personal property will be sold free and clear of all liens and encumbrances.

The Trustee will first offer all of the real and personal property included in the sale (excepting two motor trucks) together with the good will of the business, as an entirety; he will then offer the real estate separately; and then all personal property (with the same exceptions) together with the good will of the business, as an entirety; he will

then offer the personal property piecemeal; and sale or sales will be made as appears advantageous to the estate. Two motor trucks held under conditional sales contracts upon which there is an approximate aggregate balance of \$1,340.00 due, will be sold separately from the other property for an amount not less than sufficient to pay the liens in full. The sale of such motor trucks will, of course, be subject to all applicable price regulations.

All sales will be to the highest bidders, for cash, subject to the approval of the Referee.

For further information please communicate with the Trustee, Mr. James C. Sansberry, Anderson, Indiana, or with his attorneys: Bamberger & Feibleman, Indianapolis, Indiana, and Conrad S. Arnkens, Anderson, Indiana.

The inventory and appraisement of the property to be sold is on file in the office of the undersigned and may be there inspected by all interested parties.

Carl Wilde,

April 10, 1944.

*Referee in Bankruptcy.*

50 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—9401)

Comes now James C. Sansberry, Trustee in Bankruptcy herein, and files his report concerning the public sale of the assets of the bankrupt held at Elwood, Indiana on April 20, 1944, pursuant to the order of sale entered herein on April 6, 1944; said Trustee showing in his said report that all of the assets ordered sold were first offered for sale as an entirety including good will, with the exception of two trucks and an airplane, and that the highest and best bid received for said assets when so offered was \$30,000.00; that the Trustee then offered real estate, with buildings, separately, and that the highest and best bid received therefor was \$18,750.00; that the Trustee then offered two automobile trucks and that the highest and best bid received therefor was \$3,350.00; that the Trustee then offered the Curtis Robin Airplane, subject to C. A. A. regulations, and that the highest and best bid received therefor was \$575.00; that Trustee then offered, as a whole, the machinery, inventory and office furniture, excluding the trucks and the airplane, and that the highest and best bid received therefor was \$14,800.00; that the Trustee then offered the machinery, inventory and office

furniture piecemeal and that the aggregate of the highest and best bids received therefor was approximately \$32,500.00; it appearing that the aggregate amount bid for the real estate, when offered separately, and for 51 the machinery, inventory and office furniture when offered as a whole, was approximately \$51,250.00; that the good will was offered separately and that the highest and best bid received therefor was \$140.00 including a large amount of stationery and printed forms; it appearing from the said report of the Trustee that the aggregate of all the highest and best bids received for the property offered was approximately \$55,315.00; the Trustee in his said report showing further that, immediately before the beginning of the sale there was served upon him a copy of an order entered in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri in the Matter of Christopher Engineering Company, a corporation, in proceedings for the reorganization of a corporation, being No. 10947, wherein said Court restrains and enjoins said Trustee in Bankruptcy from doing any act or thing whatsoever affecting the property and assets of the bankrupt and further enjoining and restraining him from doing any act or thing whatsoever to interfere with the right of one Jerome F. Duggan, Trustee of Christopher Engineering Company in said reorganization proceeding, to the immediate possession or management of the property and assets of the bankrupt and further restraining and enjoining said Trustee herein from interfering with said Duggan in the discharge of his duties in said reorganization proceeding, and further ordering and directing said Trustee herein forthwith to turn over and deliver unto said Duggan all of the property and assets of the bankrupt in his possession or control; said Trustee, in his said report, further showing that at the time of the sale of the said assets it was announced to all present at said sale that the matter of the approval and confirmation thereof would be heard before the undersigned Referee at 10 o'clock a. m. on Tuesday, April 52 25, 1944, in the Bankruptcy Court Room, Room 245 Federal Building, Indianapolis, Indiana; that after being served with a copy of said order entered in said reorganization proceeding as aforesaid, Trustee in Bankruptcy herein, upon the advice of his counsel, with the knowledge of the Referee in Bankruptcy, concluded to proceed with the sale; the Trustee showing that notice of

said sale had been given by publication in the following newspapers: The Indianapolis News, The Indianapolis Star, The Chicago Tribune, The Chicago Daily News, and other newspapers of general circulation published in the Cities of Anderson, Kokomo, Marion, Fort Wayne, and Elwood, Indiana, and that notices had been sent to some 3,750 prospective purchasers; that between 300 and 400 persons attended said sale; that the amount of the highest bids received for the property is approximately \$10,000.00 in excess of the appraised value thereof and that such sales are advantageous to the estate and should be approved and confirmed by this court; the Trustee in his said petition praying that his acts in connection with said sale be approved by the Court; that the report be set down for hearing at the time named; and that after consideration and after due notice to the bankrupt and its officers and to said Duggan, Trustee, that said sales be approved and confirmed, or such action taken, as to the Court shall seem just and proper; which said report of the Trustee is in the words and figures following to-wit (here insert); and the Referee having heard the Trustee and his counsel in respect to said report, no other persons being present or represented except the United States Army Air Force by Major Charles E. Mattox, now finds; that at a hearing held before the Referee, upon the petition for the appointment of a Receiver in Bankruptcy, Jerome F. Duggan, as Trustee of Christopher Engineering Company, appeared by Hubert Hickam, his attorney, in opposition to such  
53 appointment; that said Receiver was appointed herein and said Duggan filed no petition for review and made no appeal from the order of appointment; that previously National Aircraft Corporation was adjudged a bankrupt, no answer contravening the involuntary petition filed against said Corporation having been filed; that at the first meeting of creditors ~~one~~ J. M. Brown, Secretary-Treasurer of the bankrupt, appeared and was examined under oath by the Referee and by representatives of creditors present at said meeting, said Brown being represented by counsel at said meeting; that at said meeting said Brown testified that the capital stock of National Aircraft Corporation was the individual property of himself and one A. B. Christopher; that on March 21, 1944, James C. Sansberry, Trustee herein, filed petition for the sale of the real and personal property and that on said date an order was entered directing that a meeting of



creditors be held on April 4, 1944, upon notice to creditors, and that notice of said meeting was sent to said Jerome F. Duggan, Trustee of Christopher Engineering Company and to counsel of record for said Brown and that said notices were duly delivered to said Duggan and to counsel for said Brown; that said Duggan, Trustee, and said Brown, although notified of said hearing upon said petition of the Trustee, did not appear, and that no objection was made at said meeting held on April 4, 1944, to the entering of an order of sale herein; that on April 6, 1944, order was entered directing the Trustee to sell the property of the bankrupt at public sale on April 20, 1944, pursuant to which order the sale was held as reported by the Trustee in his said report; that said Duggan, Trustee, and said Brown, were apprised of the entering of said order and that no review of said order was asked and no appeal taken therefrom;

And the Referee further finds that all of the assets  
54 of the bankrupt have been in the possession of an officer of the United States District Court for the Southern District of Indiana at all times since the appointment of said James C. Sansberry as Receiver in Bankruptcy herein continuously since February 8, 1944, and that said assets are now in the custody of said Court and that no application has been made to said Court for the release of its custody thereof;

And the Referee further finds that the matter of the approval and confirmation of the sales of assets reported by the Trustee should be assigned for hearing on April 25, 1944, and that said Jerome F. Duggan, Trustee of Christopher Engineering Company, and said J. M. Brown, who has been active in this matter and who, at the first meeting of creditors, made a proposal to the creditors there assembled in respect to the sale of the bankrupt's property, and all other persons in interest, should be required to appear and show cause, if any they have, why the sales of the assets of the bankrupt as reported by the Trustee should not be approved and confirmed and why the Trustee, upon receipt of the amounts paid, should not be authorized to turn over the property to the respective purchasers thereof; and accordingly it is now

Ordered that the matter of the approval and confirmation of the sales reported by the Trustee be and it is assigned for hearing before the undersigned Referee at 10:00 o'clock a. m. Central War Time on Tuesday, April

25 1944, in Room 245 Federal Building, Indianapolis, Indiana, at which time and place said Jerome F. Duggan, Trustee of Christopher Engineering Company, and said J. M. Brown and all other persons in interest may appear and show cause, if any they have, why the sales reported by the Trustee should not be approved and why, upon receipt of the purchase price from the respective high bidders at said sale, the Trustee should not be authorized to deliver the property to the purchasers thereof and to  
55 execute such instruments as may be necessary to evidence the transfer of ownership.

And notice having been given to all present at said sale that the matter of the approval and confirmation thereof would be heard at the time and place aforesaid, the Referee finds that no further notice is necessary except that notice shall be given to said Duggan, Trustee and to said Brown, and it is

Ordered that a copy of this order be sent by mail by the Referee to each of the following: Jerome F. Duggan, as Trustee for Christopher Engineering Company, Wainwright Building, St. Louis, Missouri; J. M. Brown, c/o Pence, O'Neill and Diven, Anderson Bank Building, Anderson, Indiana; Hubert Hickam, attorney at Law, 1313 Merchants Bank Building, Indianapolis, Indiana; Attorney of record for said Duggan, Trustee; and Paul A. Pfister, Assistant United States Attorney representing the United States Army Air Force, and that the mailing thereof shall constitute sufficient notice to said parties of the entering of this order and of all of the terms and provisions thereof.

Dated at Indianapolis, Indiana, this 21st day of April, 1944.

(Signed) Carl Wilde,  
*Referee in Bankruptcy.*

CC—

Jerome F. Duggan, Wainwright Bldg., St. Louis, Mo.  
J. M. Brown, c/o Pence, O'Neill and Diven, Anderson  
Bank Bldg., Anderson, Indiana  
Hubert Hickam, 1313 Merchants Bank Bldg., Indianapolis,  
Indiana  
James C. Sansberry, 938 Meridian St., Anderson, Indiana  
Conrad S. Arnkens, Citizens Bank Bldg., Anderson, Indiana  
Bamberger and Feibleman, 130 E. Washington St.,  
Indianapolis, Ind.  
Paul A. Pfister, Assistant U. S. Attorney, Federal Bldg.,  
Indianapolis, Indiana.

56 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—9401) \* \*

**TRUSTEE'S REPORT OF SALE OF REAL AND  
PERSONAL PROPERTY.****To:****The Honorable Carl Wilde,  
Referee in Bankruptcy.**

James C. Sansberry, duly qualified and acting Trustee of the estate of the above named bankrupt, respectfully represents:

1. That heretofore on the 6th day of April, 1944, an order was entered herein by this Court, ordering and directing your petitioner to sell the following described real estate belonging to said bankrupt and located in Madison County, Indiana, to-wit:

Commencing at a point 173.2 feet West of a point in the West side of 9th Street, which is 926 feet North of the North line of North "D" Street, all in the city of Elwood, Indiana; thence West 112 feet; thence North parallel with the West line of said 9th Street, 284 feet; thence East 86.2 feet to the Southerly side of the P. C. C. & St. L. R. R. right-of-way; thence Southeasterly on and along said right-of-way 35 feet to a point due North of the place of beginning; thence South 259.8 feet to the place of beginning.

And also, commencing at a point in the West side of 9th Street, 416 feet North of the North line of North "D" Street, all in the city of Elwood, Indiana; thence West 173.2 feet; thence North parallel with the West side of said 9th Street, 769.8 feet to the Southerly side of the P. C. C. & St. L. R. R. Company right-of-way; thence Southeasterly on and along said right-of-way line 236 feet to the West line of said 9th Street; thence South on and along the West side of said 9th Street, 608 feet to the place of beginning.

57 Both parcels being part of Section Nine (9), Township Twenty-one (21) North of Range Six (6) East, and excepting therefrom the right-of-way of the P. C. C. & St. L. R. R. Company upon and along the West side of said real estate.

2. That said order further directed your petitioner to sell all tangible personal property as in this proceeding

heretofore inventoried and appraised and located upon the premises formerly occupied by the bankrupt, 450 North Ninth Street, Elwood, Indiana, in lots and parcels or as a whole as would seem to be most advantageous to the estate and

3. Upon Thursday, the 20th day of April, 1944, at 9:30 A. M., CWT and throughout said day your petitioner offered for sale, subject to the approval of this Court, the following parcels:

Parcel 1 Real Estate, Machinery, Inventory, Office Furniture and Good Will as an entirety (excluding trucks).

Parcel 2 Real Estate (Land and Buildings).

Parcel 3 Automobile Trucks.

Parcel 4 Curtis Robin Aeroplane (subject to C. A. A. regulations).

Parcel 5 Machinery, Inventory, Office Furniture.

Parcel 6 Piecemeal offering of Parcel 5.

4. That said sale was conducted by Samuel L. Winteritz & Company, Inc., a corporation organized and existing under the laws of the State of Indiana with its principal office at 1607 Hanna Street, Fort Wayne, Indiana.

Your Trustee feels and believes that at this time he should compliment the auctioneer for the fine manner in which the sale was planned, arranged and conducted. All items of personal property had been carefully arranged,

cleaned and marked by lot and quantity numbers, there being in all something in excess of six hundred lots that were sold. The sale began promptly at 9:30 A. M.

and was completed about approximately 6:00 P. M. In many instances and where ceiling prices did not prevail, items brought in excess of cost. The auctioneers worked constantly and continuously throughout the day without interruption.

5. That notice of said sale was given by publishing the form of notice hereto annexed, which was circulated to some thirty-seven hundred fifty prospective buyers, and by publishing in newspapers in: Indianapolis News, Indianapolis Star, Chicago Tribune, Chicago Daily News, and other newspapers of general circulation, published in the cities of Anderson, Kokomo, Marion, Fort Wayne and Elwood, Indiana.

6. That between three and four hundred persons attended said sale and as a result thereof the following bids

were the highest and best bids received from the various parcels and piecemeal offerings as above set out:

Parcel One was first offered and the highest and best bid obtained therefor was \$30,000.00, made by William J. Black of Anderson, Indiana; Parcel Two was then offered and was sold to Charles Green of Chicago, Illinois, for \$18,750.00; Parcel Three was next offered, being the two trucks listed, one of which was sold to DeKalb Seed Company of DeKalb, Illinois, for \$1,350.00 and the other to L. Hauffman of Peru, Indiana, for \$2,000.00; Parcel Four was sold to Mr. Wambaugh of the Elkhart Brass Company, Elkhart, Indiana, on his bid of \$575.00; Parcel Five, including dies in storage in Muncie, Indiana, was sold to Charles Green of Chicago, Illinois upon his highest and best bid of \$14,600.00; and Parcel Six, being the piecemeal offering of Parcel Five, was sold in parts and parcels to numerous buyers present for a total of approximately \$32,500.00 and the Good Will was last offered and sold to Kelly and Segal of St. Louis, Missouri, for \$140.00, the only tangible assets passing therewith being a large quantity of printed stationery carrying the name of the bankrupt.

7. That deposits totaling approximately \$12,800.00 were delivered by the auctioneer to your petitioner and each buyer has established his credit to the satisfaction of the auctioneer and Trustee herein and stands ready to pay the balances upon the confirmation of this sale, the same to be paid within forty-eight hours after confirmation.

8. That real estate and buildings and personal property have been heretofore appraised by appraisers appointed by this Court and the appraised value of the real estate and buildings is \$23,000.00 and the appraised value of the tangible personal property so offered is \$24,053.50.

9. That said sale was conducted pursuant to OPA Regulations as to machinery, selling in excess of \$100.00, said sales being made by lot. That the exact amount of the sum realized from the sale of personal property cannot be stated definitely at this time because some items will still have to be checked by and between the Auctioneer and OPA representatives.

10. That at about 11:30 A. M. on the day of said auction, the said William J. Black, who had theretofore made a bid of \$30,000 for the real and personal property, and good will as an entirety, exclusive of trucks and airplane,

privately increased this bulk bid to \$45,000, making deposit thereon, but that no announcement was made by the Auctioneer or the Trustee of such bid at the time, lest it have a detrimental effect upon the piecemeal sale already in progress, said bidder being given to understand that the same would be reported to the Referee, with the circumstances in connection therewith.

11. That immediately prior to the beginning of the auction sale, a Deputy United States Marshall from the office at Indianapolis, served upon the Trustee and upon Mr. Adolph Winternitz, of the Auctioneer firm, copies of an injunction, or restraining order that had been entered by the United States District Court, for the Eastern District, Eastern Division of Missouri, on the preceding day, in the matter of Christopher Engineering Company, a corporation, in which proceeding the National Aircraft Corporation had evidently filed a petition on April 19, 1944, as a wholly owned subsidiary of said Christopher Engineering Company. That a true copy of said order is attached hereto, made part hereof, and marked Exhibit "A". That Jerome F. Duggan, named therein as Trustee, appeared in the pending bankruptcy proceeding by Hubert Hickam, of the Indianapolis Bar, in opposition to appointing Receiver, setting forth that he made mention of a prior restraining order that had been entered in the same proceeding at the time the State Court Receivership proceeding in Anderson was pending. That Receiver was appointed herein, notwithstanding the objections interposed on behalf of the said Duggan, Trustee, and that there was no petition for review filed, or appealed from said order of appointment. That the said bankrupt, thru Mr. J. M. Brown, its Secretary-Treasurer, appeared at the first meeting of creditors herein and was examined. He was represented at the time by counsel and testified that the stock of National Aircraft Corporation was owned individually by himself and by Mr. Christopher, and that while after the proceeding had been filed in St. Louis the stock was assigned to the said Duggan, as Trustee, that this was for the purpose of determining ownership, and that it did not belong to Christopher Engineering Company. That notice was given the said Duggan, Trustee, and the said National Aircraft Corporation of hearing on petition for the sale of the real and personal property herein, which hearing was had on April 4, 1944, but that they did



not appear at the same and filed no objection to said sale taking place, and order of sale was entered, upon which they filed on petition for review and did not appeal therefrom. That, pursuant to the order of sale, said Trustee made advertisement of the same as hereinbefore set forth, engaged auctioneer as authorized by the Court, who sent out circulars in the number hereinbefore mentioned, bringing some 300 to 400 people from distant parts to attend this sale, and that said Trustee, upon advise of counsel and with the knowledge of the Referee, in view of all of the circumstances, and in order that bankrupt sales, ordered by the United States District Court for the District of Indiana, would not come into disrepute with the general public and those attending such sales, concluded to proceed with the sale and did so, with the results herēinbefore set forth.

12. That said sale, in the opinion of your Trustee, being for approximately \$10,000.00 in excess of the appraisement is a most advantageous one to the estate and deserves to be approved and confirmed by the Court. That the successful bidders and all parties attending the sale, were notified that the matter of confirmation of sale would come up before the Referee for hearing, at his office, 245 Federal Building, in the City of Indianapolis, on Tuesday, April 25, 1944, at 10 A. M. Central War Time, and that the bidders would thereafter be advised of the Court's action respecting the same.

Wherefore, said Trustee prays that his acts in connection with said sale be approved by the Court; that this report to set down for hearing by formal order, at the time named, and that after such consideration, and after  
62 due notice to said bankrupt and its officers, and to the said Duggan, Trustee, that the same be approved and confirmed, or such action taken as to the Court shall deem just and proper.

(Signed) James C. Sansberry,

*Trustee.*

Subscribed and sworn to before me this 21st day of April, 1944.

(Signed) Conrad S. Arnkens,

*Notary Public.*

My Commission expires:

May 15, 1945.

63 . IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—9401)

At the hearing held this 25th day of April, 1944, for consideration of the approval and confirmation of the sales of assets reported by the Trustee, in accordance with the order entered herein on April 21, 1944, the Trustee, James C. Sansberry, appeared in person and by Isidore Feibleman of Bamberger and Feibleman and Conrad S. Arnkens, his attorneys; and the United States appeared by Paul A. Pfister, Assistant United States attorney; and it appearing that the Trustee and his counsel intend to proceed to St. Louis, Missouri, to ascertain the facts surrounding the entering of an order by the Judge of the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri in the matter of Christopher Engineering Company in proceedings for the reorganization of a Corporation, being Cause No. 10947 in said Court, whereby the Trustee in Bankruptcy herein was restrained and enjoined from doing any act or thing whatsoever affecting the property and assets of the above named bankrupt, the Referee finds that this hearing should be continued, without further notice, until 10 o'clock a. m. on Tuesday, May 2, 1944, said continued hearing to take place in Room 245 Federal Building, Indianapolis, Indiana; and that, pending the holding of said further hearing, this Court retain full and complete jurisdiction over all of the assets of the bankrupt.

S/ Carl Wilde,  
*Referee in Bankruptcy.*

CC—

Bamberger and Feibleman, 130 E. Washington St., Indianapolis, Ind.

Conrad S. Arnkens, Citizens Bank Bldg., Anderson, Indiana

James C. Sansberry, 938 Meridian St., Anderson, Indiana

Paul F. Pfister, Assistant U. S. Attorney, Federal Bldg., Indianapolis, Indiana.

64      IN THE UNITED STATES DISTRICT COURT.  
         \* \* \* (Caption—9401) \* \* \*

PETITION FOR REVIEW OF REFEREE'S ORDER.

(Filed May 10, 1944.)

To Carl Wilde, Esq., Referee in Bankruptcy.

The petition of National Aircraft Corporation respectfully represents:

1. Your petitioner is the bankrupt herein.
2. That on or about the 25th day of April, 1944, the question of the approval of the sale of the assets herein by James C. Sansberry, the trustee herein, came on for a hearing, and on or about the 2nd day of May, 1944, an order was entered approving and confirming the said sale of said assets theretofore held on or about the 20th day of April, 1944, which said order is in the words and figures following:

65      IN THE DISTRICT COURT OF THE UNITED STATES.  
         \* \* \* (Caption—9401) \* \* \*

At the continued hearing held May 2, 1944, pursuant to order entered herein on April 25, 1944, for the consideration of the report of sale filed by James C. Sansberry, Trustee in Bankruptcy herein, on April 21, 1944, the said Trustee appeared in person and by Isidore Feibleman of Bamberger & Feibleman, his attorneys, and the United States appeared by Paul A. Pfister, Assistant United States Attorney, and no creditors or other parties in interest appeared either in person or by attorney, and no cause was shown why the said report of sale should not be approved and the sales to the high bidders as therein reported, confirmed; and the Referee, having considered the evidence and being advised, finds that the assets offered for sale at the public sale held on April 20, 1944 are in the custody and control of the United States District Court for the Southern District of Indiana, and that no application for the release of said assets has been filed in said Court, and that title to said assets is in said James C.

Sansberry, as Trustee in Bankruptcy of the above named bankrupt; and the Referee further finds that said assets being in the custody and control of said Court, and the matter having been referred to the Referee, it is the duty of the Referee to determine whether or not said report of sale should be approved and the sales to the high bidders for the assets of the bankrupt confirmed, and that if said sale was fairly held and adequately attended, and said bids are adequate and reasonable, the sales to said bidders should be confirmed; and the Referee further finds that the aggregate amount bid for the property offered is substantially in excess of the appraised value thereof and very greatly in excess of the value fixed thereon by Joseph

M. Brown, Secretary-Treasurer of the bankrupt, in his 66<sup>th</sup> testimony at the first meeting of creditors, and that, with the exceptions hereinafter noted, said sales should be approved and confirmed; and accordingly, it is now

Ordered that said report of sale of the Trustee and the acts and doings of said Trustee by him therein reported be, and they are, approved; that the sale of the real estate described in said report, to Charles Green of Chicago, Illinois, for the sum of \$18,750.00 be, and it is, approved and confirmed; that the sale of the one ton automobile truck to DeKalb Seed Company of DeKalb, Illinois, for \$1,350.00 be, and it is, approved and confirmed; that the sale of the one and one-half ton truck to L. Hoffman of Peru, Indiana, for the sum of \$2,000.00 be, and it is, approved and confirmed; that the sale of the Airplane, referred to in the report of sale as Parcel 4, to F. Wambaugh of Elkhart, Indiana, for the sum of \$575.00 be, and it is, approved and confirmed; and that the sales of the personal property when offered piecemeal, as reported by the Trustee and as shown in detail in the report of the Auctioneer to the various high bidders therefor, be, and they are, approved and confirmed with the following exceptions: The sale of a heater, known as Lot No. 530, in the sum of \$20.00; the sale of the good will, which was included in Parcel No. 6 but was not designated by lot number, in the sum of \$140.00; the sale of said heater and of said good will being hereby expressly disapproved and the Trustee ordered to reject the bids therefor; the sales of all of said assets hereinabove confirmed to be free and clear of all liens and encumbrances except the property taxes upon said real estate for the year 1944, payable in 1945, to which

said real estate is sold subject, all valid and subsisting liens and encumbrances of which said assets are sold free and clear to follow and attach to the proceeds derived from the sale thereof and to be paid therefrom.

It is Further Ordered that the Trustee be, and is, upon receipt of the purchase price of the assets sold and the sale whereof is herein confirmed, authorized and directed to deliver said property to the respective purchasers thereof and to execute such instruments as may be necessary to evidence the transfer of title thereto.

Dated at Indianapolis, Indiana, this the third day of May, 1944.

(Signed) Earl Wilde,  
*Referee in Bankruptcy.*

CC

James C. Sansberry  
Conrad S. Arnkens  
Bamberger & Feibleman  
Paul A. Pfister  
William C. Moore  
Philip B. O'Neill  
Hubert Hickam

68 The said order is erroneous for the following reasons:

a) Said Referee in Bankruptcy and said Court was without jurisdiction to enter said order or any order affecting the assets and property of the bankrupt.

b) Said Court did not have jurisdiction over the assets of this bankrupt for the reason that the said bankrupt did on the 19th day of April, 1944, file in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri its petition as a subsidiary corporation of the Christopher Engineering Company, a corporation, in the reorganization proceedings pending in said United States District Court at St. Louis, Missouri, being Cause No. 10947 under Chapter X of the Bankruptcy Act, and said petition of said National Aircraft Corporation, a subsidiary, was duly approved as properly filed under Chapter X of the Bankruptcy Act on the said 19th day of April, 1944, and by reason thereof, the said United States District Court for the Eastern Division of the Eastern Judicial District of Missouri was vested with sole and exclusive jurisdiction over the assets of the National Aircraft Corporation, wherever located, and all proceedings in this cause were stayed.

Wherefore, your petitioner prays for a review of the said order by the judge and that the said order be vacated and set aside.

National Aircraft Corporation,  
by J. M. Brown,  
*Secretary-Treasurer.*

United States of America }  
State of Missouri }  
City of St. Louis }

J. M. Brown makes solemn oath that he is the Secretary-Treasurer of the National Aircraft Corporation, a corporation, the petitioner named in the foregoing petition, and is duly authorized to make said petition and this affidavit in its behalf, and that the statements contained in said petition are true according to the best of his knowledge, information and belief.

J. M. Brown.

Subscribed and sworn to before me this 5th day of May, 1944.

Noah Weinstein,  
*Notary Public.*

(Seal)

My Commission expires: March 13, 1948.

69

IN THE UNITED STATES DISTRICT COURT.  
\* \* (Caption—9401) \* \*

PETITION FOR STAY PENDING REVIEW BY  
JUDGE.

To the Honorable Carl Wilde, Esq., Referee in Bankruptcy.

The petition of National Aircraft Corporation respectfully represents:

- 1) On the                      day of May, 1944, it filed herein a petition to review a certain order entered herein on or about the 2nd day of May, 1944, wherein the sale of the assets of the bankrupt was approved.
- 2) It believes the said order is erroneous for the reasons set out in its said petition for review and it has not filed the said petition for the purpose of delay.



*Referee's Certificate on Review.*

Wherefore, your petitioner prays that an order be entered staying the enforcement of said order.

Respectfully submitted,

National Aircraft Corporation,

by J. M. Brown,

*Secretary-Treasurer.*

United States of America }  
State of Missouri }  
City of St. Louis }

J. M. Brown makes solemn oath that he is the Secretary-Treasurer of the National Aircraft Corporation, a corporation, the petitioner named in the foregoing petition, and is duly authorized to make said petition and this affidavit in its behalf, and that the statements contained in said petition are true according to the best of his knowledge, information and belief.

J. M. Brown.

Subscribed and sworn to before me this 5th day of May, 1944.

Noah Weinstein,

(Seal)

*Notary Public.*

My Commission expires: March 13, 1948.

IN THE UNITED STATES DISTRICT COURT.

(Caption—9401)

PETITION FOR REVIEW OF REFEREE'S ORDER.

(Filed May 10, 1944.)

To Carl Wilde, Esq., Referee in Bankruptcy.

✓ The petition of Jerome F. Duggan, Trustee, respectfully represents:

1. Your petitioner is the duly appointed, qualified and acting Trustee of the estate of Christopher Engineering Company, a corporation in a proceeding under Chapter X of the Bankruptcy Act, which was filed on the 27th day of December, 1943, in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, and which said petition was duly approved as prop-

erly filed on said same date and on said same date your petitioner was duly appointed Trustee therein and has been ever since acting in said capacity. That in said same proceedings the National Aircraft Corporation did, as a subsidiary corporation of the said Christopher Engineering Company, file its petition as such subsidiary on the 19th day of April, 1944, and on said same date the said United States District Court for the Eastern Division of the Eastern Judicial District of Missouri did approve said petition of said National Aircraft Corporation as being properly filed and did, on said same date in said same order, appoint your petitioner as the Trustee of said National Aircraft Corporation, and your petitioner did thereupon duly qualify as such Trustee and has been ever since acting in said capacity.

2. That on or about the 25th day of April, 1944, the question of the approval of the sale of the assets herein by James C. Sansberry, the Trustee herein, came on for a hearing, and on or about the 2nd day of May, 1944, an order was entered approving and confirming the said sale of said assets theretofore held on or about the 20th day of April, 1944, which said order is in the words and figures following:

71 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* \* (Caption—9401) \* \* \*

At the continued hearing held May 2, 1944, pursuant to order entered herein on April 25, 1944, for the consideration of the report of sale filed by James C. Sansberry, Trustee in Bankruptcy herein, on April 21, 1944, the said Trustee appeared in person and by Isidore Feibleman of Bamberger & Feibleman, his attorneys, and the United States appeared by Paul A. Pfister, Assistant United States Attorney, and no creditors or other parties in interest appeared either in person or by attorney, and no cause was shown why the said report of sale should not be approved and the sales to the high bidders as therein reported, confirmed; and the Referee, having considered the evidence and being advised, finds that the assets offered for sale at the public sale held on April 20, 1944 are in the custody and control of the United States District Court for the Southern District of Indiana, and that no application for

the release of said assets has been filed in said Court, and that title to said assets is in said James C. Sansberry, as Trustee in Bankruptcy of the above named bankrupt; and the Referee further finds that said assets being in the custody and control of said Court, and the matter having been referred to the Referee, it is the duty of the Referee to determine whether or not said report of sale should be approved and the sales to the high bidders for the assets of the bankrupt confirmed, and that if said sale was fairly held and adequately attended, and said bids are adequate and reasonable, the sales to said bidders should be confirmed; and the Referee further finds that the aggregate amount bid for the property offered is substantially in excess of the appraised value thereof and very greatly in excess of the value fixed thereon by Joseph M. Brown,

Secretary-Treasurer of the bankrupt, in his testimony 72 at the first meeting of creditors, and that, with the exceptions hereinafter noted, said sales should be approved and confirmed; and accordingly, it is now

Ordered that said report of sale of the Trustee and the acts and doings of said Trustee by him therein reported be, and they are, approved; that the sale of the real estate described in said report, to Charles Green of Chicago, Illinois, for the sum of \$18,750.00 be, and it is, approved and confirmed; that the sale of the one ton automobile truck to DeKalb Seed Company of DeKalb, Illinois, for \$1,350.00 be, and it is, approved and confirmed; that the sale of the one and one-half ton truck to L. Hoffman of Peru, Indiana, for the sum of \$2,000.00 be, and it is, approved and confirmed; that the sale of the Airplane, referred to in the report of sale as Parcel 4, to F. Wambaugh of Elkhart, Indiana, for the sum of \$575.00 be, and it is, approved and confirmed; and that the sales of the personal property when offered piecemeal, as reported by the Trustee and as shown in detail in the report of the auctioneer to the various high bidders therefor, be, and they are, approved and confirmed with the following exceptions: The sale of a heater, known as Lot No. 530, in the sum of \$20.00; the sale of the good will, which was included in Parcel No. 6 but was not designated by lot number, in the sum of \$140.00; the sale of said heater and of said good will being hereby expressly disapproved and the Trustee ordered to reject the bids therefor; the sales of all of said assets hereinabove confirmed to be free and clear of all liens and en-

encumbrances except the property taxes upon said real estate for the year 1944, payable in 1945, to which said real estate is sold subject, all valid and subsisting liens and encumbrances of which said assets are sold free and clear to follow and attach to the proceeds derived from the sale thereof and to be paid therefrom.

It Is Further Ordered that the Trustee be, and is, upon receipt of the purchase price of the assets sold and the sale whereof is herein confirmed, authorized and directed to deliver said property to the respective purchasers thereof and to execute such instruments as may be necessary to evidence the transfer of title thereto.

Dated at Indianapolis, Indiana, this the third day of May, 1944.

(Signed) Earl Wilde,  
*Referee in Bankruptcy.*

CC  
James C. Sansberry  
Conrad S. Arnkens  
Bamberger & Feibleman  
Paul A. Pfister  
William C. Moore  
Philip B. O'Neill  
Hubert Hickam

74 The said order is erroneous for the following reasons:

a) Said Referee in Bankruptcy and said Court was without jurisdiction to enter said order or any order affecting the assets and property of the bankrupt.

b) Said Court did not have jurisdiction over the assets of this bankrupt for the reason that the said bankrupt did, on the 19th day of April, 1944, file in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri its petition as a subsidiary corporation of the Christopher Engineering Company, a corporation, in the reorganization proceedings pending in said United States District Court at St. Louis, Missouri, being Cause No. 10947 under Chapter X of the Bankruptcy Act, and said petition of said National Aircraft Corporation, a subsidiary, was duly approved as properly filed under Chapter X of the Bankruptcy Act on the said 19th day of April, 1944, and by reason thereof, the said United States District Court for the Eastern Division of the East-

ern Judicial District of Missouri was vested with sole and exclusive jurisdiction over the assets of the National Aircraft Corporation, wherever located, and all proceedings in this cause were stayed.

Wherefore, your petitioner prays for a review of the said order by the judge and that the said order be vacated and set aside.

Jerome F. Duggan,  
*Trustee of the Estate of Christopher Engineering Company, a corporation, and Trustee of the Estate of National Aircraft Corporation, a corporation, pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri.*

United States of America }  
 State of Missouri }  
 City of St. Louis }

Jerome F. Duggan, who, first being duly sworn on his oath, states that the matters and facts hereinabove set forth are true to the best of his knowledge, information and belief.

Jerome F. Duggan.

Subscribed and sworn to before me this 5th day of May, 1944.

Noah Weinstein,

(Seal)

*Notary Public*

My Commission expires: March 13th, 1948.

75

IN THE UNITED STATES DISTRICT COURT.

(Caption—9401)

PETITION FOR STAY PENDING REVIEW BY  
JUDGE.

To the Honorable Carl Wilde, Esq., Referee in Bankruptcy.

The petition of Jerome F. Duggan, Trustee, respectfully represents:

1) On the 10th day of May, 1944, he filed herein a petition to review a certain order entered herein on or about the 2nd day of May, 1944, wherein the sale of the assets of the bankrupt was approved.

2) He believes that the said order is erroneous for the reasons set out in his said petition for review and he has not filed the said petition for the purpose of delay.

Wherefore, your petitioner prays that an order be entered staying the enforcement of said order.

Respectfully submitted,

Jerome F. Duggan,

*Trustee of the Estate of Christopher Engineering Company, a corporation, and Trustee of the Estate of National Aircraft Corporation, a corporation, pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri.*

United States of America, }  
State of Missouri, } ss.  
City of St. Louis.

Jerome F. Duggan, first being duly sworn on his oath, states that the matters and facts hereinabove set forth are true to the best of his knowledge, information and belief.

Jerome F. Duggan.

Subscribed and sworn to before me this 5th day of May, 1944.

(Seal)

Noah Weinstein,  
Notary Public.

My commission expires March 13th, 1948.



76 The following is a copy of an order made by the Referee on May 16, 1944:

77 IN THE UNITED STATES DISTRICT COURT.

\* \* \* (Caption—9401) \* \*

On May 10, 1944, Phil O'Neill of Anderson, Indiana, Attorney for Jerome F. Duggan of Christopher Engineering Company; filed in the office of the undersigned Referee a petition subscribed by Jerome F. Duggan, as Trustee of the Estate of Christopher Engineering Company, a corporation, and as Trustee of the Estate of National Aircraft Corporation, a corporation, pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, for the review of an order entered by said Referee on May 3, 1944; which petition is in the words and figures following, to-wit: (Here insert); and on the same day said Phil O'Neill also filed a petition for the review of the same order, which petition is signed by National Aircraft Corporation by J. M. Brown, Secretary-Treasurer, which said petition is in the words and figures following, to-wit: (Here insert). Neither petition was in duplicate as required by Rule 19 of the Rules of the District Court of the United States for the Southern District of Indiana, and neither petition was accompanied by brief as required by said Rule. James C. Sansberry, Trustee in Bankruptcy herein, has reported

78 to the Referee that neither a copy of the petition of Duggan, Trustee, nor that purporting to be the petition of National Aircraft Corporation has been served upon him as required by the provisions of Section 39c of the Bankruptcy Act, but that he, the said Sansberry, happened to meet said Phil O'Neill on the street and that said Phil O'Neill advised him that he had filed the petition for review purporting to be that of National Aircraft Corporation and said O'Neill permitted said Sansberry to come to his office to make a copy of said petition.

In order to permit compliance with the Rule by the filing of briefs in support of said respective petitions, the Referee deferred actions upon said petitions.

It seems obvious that the failure of the petitioners for review to comply with the Rules of Court and the provi-

sions of the Bankruptcy Act in respect to the filing of such petitions would justify the denial thereof. In order, however, to resolve all doubts in favor of the petitioners and so that the matter may be presented to the Judge of the United States District Court for the Southern District of Indiana, the Referee finds that said petition should be granted. Clearly, however, under the provisions of Paragraph (d) of said Rule 19, the petitioners have waived their right to file briefs.

Accompanying each of the petitions for review aforesaid is a petition for an order to stay the enforcement of the order of May 3, 1944, approving and confirming the sales made by the Trustee. No offer to indemnify the estate against loss has been made by either of the petitioners.

The Referee is informed by James C. Sansberry, Trustee in Bankruptcy herein, that by far the major portion of the personal property of the estate has been delivered to the purchasers thereof. The sales approved and confirmed are highly advantageous to the estate. To stay the enforcement of the order in respect to the small amount of personal property remaining undelivered to the purchasers would not benefit the petitioners and would entail loss and expense to the estate. The Referee finds, therefore, that such petitions for an order staying the enforcement of the order approving and confirming the sale should be denied.

It Is, Therefore, Ordered that the petitions for review of the order entered on May 3, 1944, being the petition of Jerome F. Buggan, Trustee, and the purported petition of National Aircraft Corporation, the above named bankrupt, be and they are granted, and that the Referee file his certificate covering both of said petitions in the office of the Clerk of the Court; and that the petitions for an order staying the enforcement of the order entered on May 3, 1944, be, and they each of them are, denied.

Carl Wilde,

*Referee in Bankruptcy.*

Entered May 16, 1944.

cc

Barabarger & Feibleman  
James C. Sansberry  
Hubert Hickam  
Phil O'Neill

56. *Suggestions, Etc., and Motion for Stay.*

80 The following is a copy of Suggestion Of Super-  
seding Reorganization Proceedings And Motion To  
Stay Proceedings filed with the Clerk of this Court on May  
10, 1944:

81 IN THE UNITED STATES DISTRICT COURT.  
\* \* (Caption—9401) \* \*

SUGGESTION OF SUPERSEDING REORGANIZA-  
TION PROCEEDINGS AND MOTION TO STAY  
PROCEEDINGS.

(Filed May 10, 1944.)

To the Honorable Robert C. Baltzell, Judge of the United  
States District Court for the Southern District of Indi-  
ana, Indianapolis Division:

The petition of Jerome F. Duggan, Trustee, respectfully  
represents:

Your petitioner is the duly appointed, qualified and act-  
ing Trustee of the estate of Christopher Engineering Com-  
pany, a corporation in a proceeding under Chapter X of  
the Bankruptcy Act, which was filed on the 27th day of  
December, 1943, in the United States District Court for  
the Eastern Division of the Eastern Judicial District of  
Missouri, and which said petition was duly approved as  
properly filed on said same date and on said same date  
your petitioner was duly appointed and qualified as Trus-  
tee therein and has been ever since acting in said capacity.  
That in said same proceedings the National Aircraft Cor-  
poration did, as a subsidiary corporation of the said Chris-  
topher Engineering Company, filed its petition as such  
subsidiary on the 19th day of April, 1944, and on said same  
date the said United States District Court for the Eastern  
Division of the Eastern Judicial District of Missouri did  
approve said petition of said National Aircraft Corpora-  
tion as being properly filed and did, on said same date in  
said same order, appoint your petitioner as the Trustee of  
said National Aircraft Corporation, and your petitioner  
did thereupon duly qualify as such Trustee and has been  
ever since acting in said capacity.

Attached hereto, and by express reference made a part  
hereof, is a certified copy of petition of National Aircraft

Corporation above referred to and the order of the United States District Court of April 19, 1944, approving same.

That by reason of the above facts, this Court and its Referee in Bankruptcy, Carl Wilde, ceased to have any jurisdiction over the assets of the National Aircraft and from on and after the 19th day of April, 1944, the sole and exclusive jurisdiction over the National Aircraft Corporation and its property and assets was vested in the

United States District Court for the Eastern Division of the Eastern Judicial District of Missouri.

Wherefore, your petitioner respectfully prays that this Court enter an order staying any further proceedings in the pending bankruptcy case of the National Aircraft Corporation, and that it further enter its order holding for naught all action taken and orders entered by this Court or the said Referee in Bankruptcy in the National Aircraft Corporation bankruptcy proceeding pending before this Court, which action was taken or orders entered on or after April 19, 1944, and particularly all proceedings for the sale of the assets or property of the National Aircraft Corporation or other proceedings calculated to withdraw any property of the National Aircraft Corporation from any contemplated plan of reorganization in connection with its parent corporation.

Respectfully submitted,

Jerome F. Duggan,

*Trustee of the Estate of Christopher Engineering Company, a corporation, and Trustee of the Estate of National Aircraft Corporation, a corporation, pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri.*

United States of America, }  
 State of Missouri, }  
 City of St. Louis. }

Jerome F. Duggan, first being duly sworn on his oath, states that the matters and facts hereinabove set forth are true to the best of his knowledge, information and belief.

Jerome F. Duggan.

Subscribed and sworn to before me this 5th day of May, 1944.

/s/ Noah Weinstein;  
*Notary Public.*

My Commission expires:

82 IN THE UNITED STATES DISTRICT COURT,  
 Eastern District of Missouri.  
 \* \* (Caption—10947) \* \*

# NATIONAL AIRCRAFT CORPORATION, SUBSIDIARY CORPORATION'S PETITION FOR REORGANIZATION.

To the Honorable George H. Moore, Judge of the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri.

The National Aircraft Corporation, a corporation, a subsidiary of the debtor herein, for its petition in the above entitled proceedings for the corporate reorganization of Christopher Engineering Company, a corporation, the principal debtor, respectfully shows that:

1) This subsidiary corporation is a corporation duly organized under the laws of the State of Indiana.

2) This subsidiary is not a municipal, insurance or banking corporation, nor a building and loan association, nor a railroad corporation; but it is a business corporation which could become a bankrupt under Section 4 of the Bankruptcy Act.

3) The majority of the capital stock of this subsidiary corporation having power to vote for the election of directors is owned directly by the debtor or indirectly through nominees.

4) This subsidiary corporation is unable to meet its

debts as they mature, and it desires to effect a plan of reorganization in connection with the plan of corporate reorganization of the debtor.

5) The nature of the debtor's business is the manufacturing of aircraft and aircraft parts.

83 6) The nature of all pending proceedings affecting the property of the debtor, so far as is known, and the courts in which they are pending, are as follows:

An involuntary petition in bankruptcy was filed against this subsidiary corporation in the United States District Court for the Southern District of Indiana, Indianapolis Division, in Cause No. 9401, and an order of adjudication was entered in said proceeding and the matter referred to the Honorable Carl Wilde as Referee in Bankruptcy, and in said proceeding James C. Sansberry was duly appointed, and is now acting as trustee in bankruptcy. Said trustee in said bankruptcy proceeding has taken possession of all the assets of this subsidiary corporation located in Elwood, Indiana, and has advertised a sale thereof to be held on the 20th day of April, 1944, and has retained the firm of Samuel L. Winternitz & Company, Inc., as auctioneers to conduct said sale commencing on said aforementioned date.

7) The assets, liabilities, capital stock and financial condition of your petitioner are as follows:

(a) The assets of your petitioner consist of real estate and factory building, equipment, machinery and inventory, all located in Elwood, Indiana, and accounts receivable, all of an aggregate clear value of approximately \$150,000.00.

(b) The liabilities of your petitioner, exclusive of its capital stock, consist of accounts payable and other claims in the amount of approximately \$90,000.00. In addition, the records of the company indicate liabilities in the nature of a claim of the United States government amounting to approximately \$150,000.00. It is your petitioner's opinion that this is not in reality a claim that must be paid by the debtor. Another group of claims aggregating approximately \$170,000.00 will also appear on the records of your debtor. However, your petitioner states

that these claims are actually claims against the United States government and will or should be paid, by the United States government.

(c) The issued capital stock of your petitioner is \$30,000.00 in \$100.00 par value common stock.



8) In order for your petitioner to obtain relief it is necessary that the proceedings now pending in the bankruptcy court in Indianapolis, Indiana, be permanently enjoined and that the rights of unsecured creditors be modified, and an extension of time of payment of unsecured debts be given your petitioner, and your petitioner can not obtain adequate relief under Chapter XI of the Bankruptcy Act. Your petitioner believes that its assets are of a value in excess of its total liabilities, but the nature of its assets is such that their true value is not readily realizable; a forced sale of said assets would bring substantially less than its total liabilities.

Wherefore, this subsidiary corporation prays that this petition be approved as properly filed under Chapter X of the Bankruptcy Act, and that further proceedings be had in accordance with said section, as part of or in connection with the corporate reorganization proceedings of the principal debtor herein.

Your petitioner further prays that this Court enter its order restraining and enjoining any further steps or proceedings in the bankruptcy case in the United States District Court for the Southern District of Indiana, Indianapolis Division, being Case No. 9401, and that James C. Sansberry, the trustee in said bankruptcy proceeding, be restrained and enjoined from taking any steps of any kind affecting or in relation to any of the property or assets of the National Aircraft Corporation, and that James C. Sansberry, trustee, be ordered and directed to forthwith turn over and deliver to your petitioner, or to such trustee as may be appointed herein, all the assets and property of this petitioner, and that Samuel L. 85 Winternitz & Company, Inc., its agents, employees and representatives, be enjoined from taking any action or steps of any kind affecting the property and assets of your petitioner, and that they be further restrained and enjoined from proceeding with and selling said assets.

National Aircraft Corporation,  
a corporation,

By J. M. Brown,  
*Petitioner.*

Noah Weinstein,  
Geo. O. Durham,  
B. Sherman Landau,  
*Attorneys for Petitioner.*

*Order Approving Petition.*

61

State of Missouri }  
City of St. Louis } ss.

J. M. Brown makes solemn oath that he is Secretary of the National Aircraft Corporation, a corporation, the petitioner named in the foregoing petition, and is duly authorized to make said petition and this affidavit in its behalf, and that the statements contained in said petition are true according to the best of his knowledge, information, and belief.

J. M. Brown.

Subscribed and sworn to before me this 18th day of April, 1944.

Henry J. Jacobsmeyer,

(Seal)

*Notary Public.*

My commission expires: June 2, 1944.

Endorsed: "Filed Apr. 19, 1944. Jas. J. O'Connor, Clerk."

86

IN THE UNITED STATES DISTRICT COURT,

Eastern District of Missouri.

\* \* (Caption—10947) \* \*

ORDER APPROVING PETITION OF SUBSIDIARY CORPORATION, ETC.

At St. Louis, in said division of said district, this 19th day of April, 1944.

This cause, coming on to be heard on the petition of National Aircraft Corporation, a corporation, praying that proceedings be had under Chapter X of the Bankruptcy Act in connection with the said National Aircraft Corporation, a wholly owned subsidiary of the Christopher Engineering Company, the principal debtor, and after hearing attorneys for said subsidiary corporation in favor of said petition.

Now, upon said petition, and all the proceedings had before me at the said hearing, and due deliberation having been had thereon: the

**Court Does Find**

1. That the National Aircraft Corporation is a wholly owned subsidiary of the Christopher Engineering Company, a corporation, the principal debtor herein, and is entitled to file its petition in these proceedings of its parent company.

2. That the indebtedness of National Aircraft Corporation, liquidated as to amount and not contingent as to liability, is less than Two Hundred and Fifty Thousand Dollars (\$250,000.00).

3. That Jerome F. Duggan, Esq., is qualified to be trustee herein.

87 4. That said petition of National Aircraft Corporation complies with the requirements of Chapter X of the Bankruptcy Act.

5. That said petition of National Aircraft Corporation has been filed in good faith; and it is

Ordered, Adjudged and Decreed

6. That said petition be, and it hereby is, approved.

7. That Jerome F. Duggan, Esq., be, and he hereby is, appointed trustee of said National Aircraft Corporation, and said trustee upon filing a bond, as hereinafter provided, shall be vested with all the title and, to the extent consistent with said Chapter X, shall be vested with the same rights, shall be subject to the same duties, and shall exercise the same powers as a trustee appointed pursuant to Section 44 of said Act, and shall have and may exercise such additional rights and powers as a receiver in equity would have if appointed by a court of the United States for the property of said subsidiary debtor.

8. That the bond of Jerome F. Duggan as Trustee of the estate of the Debtor heretofore filed and approved herein be extended to cover the liabilities of said Trustee as Trustee of National Aircraft Corporation to the same extent as said bond covers his liabilities as Trustee of the Debtor herein; the extension of such bond, approved by the Court, shall be promptly filed herein.

9. That said trustee be, and he hereby is, authorized to operate the business and manage the property of said subsidiary debtor until such time as this court shall otherwise prescribe, and during such operation and management, the said trustee shall file with this court, in duplicate, not later than the 15th day of each month, a report and summary of the operations of the business and the

management of the property of the within estate during the preceding month, which report shall include a classified statement of receipts and disbursements, indebtedness incurred, credit extended, contractual and other obligations assumed, and a profit and loss statement.

88 10. That without in any way limiting the generality of paragraphs numbered 7 and 9 hereof, and to the extent consistent with Chapter X of said Act, said trustee shall have full power and authority until the further order of this court,

(a) To employ, discharge and fix the compensation, salaries and wages of all managers, agents, employees and servants, as he may deem necessary and advisable for the proper operation of the business and the management, preservation and protection of the property of said subsidiary debtor.

(b) To purchase or otherwise acquire for cash or on credit, such materials, equipment, machinery, supplies, services or other property, as he may deem necessary and advisable in connection with the operation of said business and the management and preservation of said property;

(c) To sell merchandise, supplies and other property, and to render services, for cash or on credit;

(d) To enter into any contracts incidental to the normal and usual operation of said business and the management and preservation of said property;

(e) To keep the property of the within estate insured in such manner and to such extent as he may deem necessary and advisable;

(f) To collect and receive all rents, issues, income and profits, and all outstanding accounts, things in action and credits due or to become due to the within estate, and to hold and retain all monies thus received to the end that the same may be applied under this and different or further orders of this court;

(g) To do any and all such things and to incur such other expenses as may be necessary and advisable in the property management and conduct of the affairs of said subsidiary debtor and in the preservation and protection of the property and assets of the within estate;

(h) To institute, prosecute, defend, compromise, adjust, intervene in or become a party to such other actions or proceedings in law or in equity, in state or  
89 federal courts, as may in his judgment be necessary or advisable for the protection, maintenance and

preservation of the property and assets of the within estate.

11. That until the further order of this court, said trustee, in his discretion, be, and he hereby is, authorized to pay from time to time out of any and all funds now or hereafter coming into his hands and available for such purposes:

(a) All taxes and similar charges lawfully incurred in the operation of the business and the preservation and maintenance of the property and assets of the within estate since the filing of said petition;

(b) All proper expenses and obligations incurred by him on or after the date of this order in operating the business and preserving and maintaining the property and assets of the within estate, as herein authorized, including among other expenses and obligations, the reasonable wages, salaries and compensation of all managers, agents, employees and servants, other than officers, employed by him;

(c) The cost of maintaining the corporate existence of said subsidiary debtor, including necessary expenses for the preservation of records;

(d) The expense of printing and mailing and of publishing notices to creditors, stockholders and all other parties in interest of proceedings taken hereunder, and of printing the pleadings, motions, petitions and orders now on file or hereafter filed in this case reasonably necessary to be printed.

12. That said trustee shall close the present books of account of said subsidiary debtor, as of the close of business on the date of the entry of this order, and shall open new books of account, as of the opening of business on the next succeeding business day, in which new books of account he shall cause to be kept proper account of his earnings, expenses, receipts, disbursements and all obligations incurred and transactions had in the operation of the business and the management, preservation and protection of the property of the within estate; and said trustee shall preserve proper vouchers for all payments made on account of such disbursements.

13. That said trustee be, and he hereby is, directed to investigate the acts, conduct, property, liabilities and financial condition of said subsidiary debtor, the opera-

tion of its business and the desirability of the continuance thereof, and any other matter relevant to the proceeding or to the formulation of a plan, and shall make and deliver a report thereon to the judge not later than sixty (60) days from the date hereof, and, within ten (10) days after the delivery of such report, shall make application to the judge for a direction as to the form and manner of a brief statement thereof to be submitted to the creditors and stockholders and such other persons as the judge may designate.

14. That until final decree or the further order of this court, all creditors and stockholders, and all sheriffs, marshals and other officers, and their respective attorneys, servants, agents and employees, and all other persons, firms and corporation be, and they hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity against said subsidiary debtor or said trustee in any court, or from executing or issuing or causing the execution or issuance out of any court of any writ, process, summons, attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or enforcing a lien upon any property owned by or in the possession of the said subsidiary debtor of said trustee, and from doing any act or thing whatsoever to interfere with the possession or management by said subsidiary debtor or said trustee of the property and assets of the within estate, or in any way interfere with said trustee in the discharge of his duties herein, or to interfere in any manner during the

91 pendency of this proceeding with the exclusive jurisdiction of this court over said subsidiary debtor and said trustee and their respective properties; and all persons, firms or corporations owning any lands or buildings occupied by said subsidiary debtor of said trustee or wherein is contained any property of the within estate be, and they hereby are, jointly and severally, stayed, pending the further order of this court, from removing or interfering with any such property.

16. That James C. Sansberry, heretofore appointed trustee in the bankruptcy proceeding pending in the United States District Court for the Southern District of Indiana, Indianapolis Division, which proceedings are now



pending before the Honorable Carl Wilde, Referee in Bankruptcy for said Division and District, be, and is hereby, restrained and enjoined from doing any act or thing whatsoever affecting the property and assets of the National Aircraft Corporation, and he is further enjoined and restrained from doing any act or thing whatsoever to interfere with the right of the trustee herein to the immediate possession or management of the property and assets of the National Aircraft Corporation, and he is further restrained and enjoined from interfering with the trustee herein in the discharge of his duties in this proceeding, and he is further ordered and directed to forthwith turn over and deliver unto the trustee herein all of the property and assets of the National Aircraft Corporation in his possession or under his control.

16. That Samuel I. Winternitz & Company, Inc., its agents, officers, employes and servants, be, and they are hereby jointly and severally restrained and enjoined from selling or attempting to sell the assets or any part thereof belonging to the National Aircraft Corporation; and they are further restrained and enjoined from doing any act or thing whatsoever affecting the property and assets of the National Aircraft Corporation.

92 17. That this court reserves full right and jurisdiction to make at any time and from time to time such orders for the purpose of vacating, amplifying, extending, limiting or otherwise modifying this order, as the court shall deem proper.

Geo. H. Moore,  
*United States District Judge.*

Endorsed: "Filed Apr. 19, 1944. Jas. J. O'Connor, Clerk."

This writ came to hand from J. M. Brown, attorney, 705 Olive Street, St. Louis, Missouri, at 8:00 A. M. at Indianapolis, Indiana, April 20, 1944.

Julius J. Wichser,  
*U. S. Marshal.*  
By Robert G. Newbold,  
*Chief Deputy U. S. Marshal.*

Received this writ at Indianapolis, Indiana on April 20, 1944 and on the same day served it upon the with-named James C. Sansberry, Trustee, personally, and Samuel L.

*Order Approving Petition.*

67

Winternitz & Co. by Adolph J. Winternitz, Vice President, personally, at 9:30 A. M. at Elwood, Indiana.

Julius J. Wichser,

*U. S. Marshal,*

By Andrew M. Taff,

*Deputy.*

2 Services — \$4.00

Expense — 4.09

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\$8.09

Endorsed: "Filed Apr. 22, 1944. Jas. J. O'Connor, Clerk."

93 United States of America }  
Eastern District of Missouri } ss.

I, James J. O'Connor, Clerk of the United States District Court in and for the Eastern District of Missouri, do hereby certify that the annexed and foregoing is a true and full copy of the original Petition for Reorganization and Order Approving Petition of Subsidiary Corporation, etc., both filed April 19, 1944, in the Matter of Christopher Engineering Company, a corporation, Debtor, in Proceedings for the Reorganization of a Corporation, No. 10947, by National Aircraft Corporation, a corporation, a Subsidiary corporation of Christopher Engineering Company, a corporation; also copy of return (executed) of United States Marshal at Indianapolis, Indiana, filed April 22, 1944, in the aforesaid cause, and now remaining among the records of the said Court in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at St. Louis, Missouri this 5th day of May, A. D. 1944.

James J. O'Connor,

(Seal)

*Clerk:*

By John A. Oldendorph,

*Deputy Clerk.*

94 And afterwards to wit at the May Term of said Court on the 5th day of June, 1944, before the Honorable Robert C. Baltzell, Judge of said Court, the following further proceedings were had herein, to wit:

95 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—9401B) \* \*

ORDER FOR JUNE 5, 1944.

This matter being submitted to the Court upon the petition filed by the National Aircraft Corporation and the petition filed by Jerome F. Duggan, as Trustee of the Estate of Christopher Engineering Company and as Trustee of the Estate of National Aircraft Corporation, a corporation, pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, for review of the order made and entered by the Referee in Bankruptcy on the 3rd day of May, 1944, and the Referee's certificate thereon filed herein on the 18th day of May, 1944, and the Court being duly advised;

It Is Ordered by the Court that the petition for review of the National Aircraft Corporation and the petition for review of Jerome F. Duggan, as Trustee of the Estate of Christopher Engineering Company and as Trustee of the Estate of National Aircraft Corporation, a corporation, pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, each be, and each petition is, hereby overruled, and the finding and order made and entered herein by Carl Wilde, Referee in Bankruptcy on the 3rd day of May, 1944, be, and the same is, hereby adopted, approved and affirmed.

96 The following is a copy of Notice of Appeal to Circuit Court of Appeals filed with the Clerk on June 29, 1944 by Jerome F. Duggan, Trustee:

97 IN THE DISTRICT COURT OF THE UNITED STATES

For the Southern District of Indiana,

Indianapolis Division.

In the Matter of  
National Aircraft Corporation,  
a corporation,  
Bankrupt. } No. 9401 B.

NOTICE OF APPEAL TO CIRCUIT COURT OF  
APPEALS.

(Filed June 29, 1944. Albert C. Sogemeier, Clerk.)

Jerome F. Duggan, Trustee of the Estate of Christopher Engineering Company, a corporation, in proceedings under Chapter X of the Bankruptcy Act, and Trustee of the Estate of National Aircraft Corporation, a corporation, a subsidiary, in reorganization proceedings under Chapter X of the Bankruptcy Act, pending in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, hereby appeals to the Circuit Court of Appeals for the Seventh Circuit from the order of this Court of June 5th, 1944, overruling the petition for review by Jerome F. Duggan, Trustee of the Estate of Christopher Engineering Company, a corporation, and Trustee of the Estate of National Aircraft Corporation, a corporation, of the order made and entered by the Referee in Bankruptcy on May 3rd, 1944, approving and confirming the sale of the assets of the said bankrupt, which said order of the United States District Court of June 5th, 1944, adopted, approved and affirmed the finding and order made and entered by said Referee in Bankruptcy on the said 3rd day of May, 1944.

Jerome F. Duggan,  
*Attorney pro se.*  
Philip B. O'Neill,  
Anderson, Ind.

6/29/44—Copy mailed to Bamberger & Feibleman.  
Albert C. Sogemeier FEK.

98 The following is a copy of Assignment of Errors filed with the Clerk on June 29, 1944 by Jerome F. Duggan, Trustee:

99 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—9401B) \* \*

### ASSIGNMENT OF ERRORS.

Comes now Jerome F. Duggan, Trustee of the Estate of Christopher Engineering Company, a corporation, in proceedings under Chapter X of the Bankruptcy Act, and Trustee of the Estate of National Aircraft Corporation, a corporation, a subsidiary, in reorganization proceedings under Chapter X of the Bankruptcy Act, pending in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, appellant, and files this, his assignment of errors, complaining as follows:

(1) That the said Court was without jurisdiction in making said order.

(2) That prior to the entry of said order, the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri had, by lawful order, acquired and retained full and complete jurisdiction over the assets of the National Aircraft Corporation, to the exclusion of all jurisdiction of this Court.

(3) That the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri has sole and exclusive jurisdiction over the property and assets of the National Aircraft Corporation by virtue of reorganization proceedings pending before said Court and by reason thereof, the said United States District Court  
100 for the Southern District of Indiana, Indianapolis

Division, was without authority or jurisdiction to enter its aforesaid order and said aforesaid order was and is void and in excess of the jurisdiction of said Court, and in violation of and an infringement on and usurpation of the superior and superseding jurisdiction of the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, as conferred by the Chandler Act.

(4) That the order appealed from operates to deny to the National Aircraft Corporation due process of law and

the equal protection of the law, contrary to the provisions of the Fifth Amendment to the Constitution of the United States, and denies to the National Aircraft Corporation the benefits of the provisions of the Chandler Act, awarding to subsidiary corporations generally the privileges of reorganization in a common place with its parent corporation.

Jerome F. Duggan, Trustee,

/s/ Jerome F. Duggan,

Attorney pro se.

/s/ Philip B. O'Neill,

Anderson, Ind.

101 The following is a copy of the Statement of Points filed with the Clerk on August 1, 1944 by Jerome F. Duggan, Trustee:

102 IN THE DISTRICT COURT OF THE UNITED STATES.  
(Caption—9401 B)

STATEMENT OF POINTS TO BE RELIED UPON  
BY APPELLANT JEROME F. DUGGAN, TRUSTEE,  
ON APPEAL.

Comes now Jerome F. Duggan, Trustee of the Estate of Christopher Engineering Company, a corporation, in proceedings under Chapter X of the Bankruptcy Act, and Trustee of the Estate of National Aircraft Corporation, a corporation, a subsidiary, in reorganization proceedings under Chapter X of the Bankruptcy Act, pending in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, appellant, and respectfully states that he will, on his appeal from the order of the District Court made and entered on the 5th day of June, 1944, rely upon the following statement of points, namely:

1) That the said Court was without jurisdiction in making said order.

2) That prior to the entry of said order, the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri had, by lawful order, acquired and retained full and complete jurisdiction over the assets of the National Aircraft Corporation, to the exclusion of all jurisdiction of this Court.

3) That the United States District Court for the East



ern Division of the Eastern Judicial District of Missouri has sole and exclusive jurisdiction over the property and assets of the National Aircraft Corporation by virtue of reorganization proceedings pending before said Court and by reason thereof, the said United States District Court for the Southern District of Indiana, Indianapolis Division, was without authority or jurisdiction to enter its aforesaid order and said aforesaid order was and is void and in excess of the jurisdiction of said Court, and in violation of and in infringement on and usurpation of the superior and superseding jurisdiction of the 103 United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, as conferred by the Chandler Act.

4) That the order appealed from operates to deny to the National Aircraft Corporation due process of law and the equal protection of the law, contrary to the provisions of the Fifth Amendment to the Constitution of the United States, and denies to the National Aircraft Corporation the benefits of the provisions of the Chandler Act, awarding to subsidiary corporations generally the privileges of reorganization in a common place with its parent corporation.

Jerome F. Duggan, *Trustee*.

Jerome F. Duggan,

*Attorney pro se.*

Copies of the above Statement of Points mailed, postage prepaid, this 31st day of July 1944, to

James C. Sansberry, Trustee

938 Meridian Street

Anderson, Indiana

Conrad S. Arnkens

Attorney at Law

Citizens Bank Bldg.

Anderson, Indiana

Bamberger & Feibleman

Attorneys at Law

901 Security Trust Bldg.

Indianapolis, Indiana

Noah Weinstein.

104 The following is a copy of Notice of Appeal to Circuit Court of Appeals filed with the Clerk on June 29, 1944 by National Aircraft Corporation:

105 IN THE DISTRICT COURT OF THE UNITED STATES

For the Southern District of Indiana,

Indianapolis Division.

In the Matter of

National Aircraft Corporation,

a corporation.

Bankrupt.

} No. 9401-B

NOTICE OF APPEAL TO CIRCUIT COURT  
OF APPEALS.

(Filed June 29, 1944. Albert C. Sogemeier, Clerk.)

Notice is hereby given that National Aircraft Corporation, a corporation, the bankrupt herein, hereby appeals to the Circuit Court of Appeals for the Seventh Circuit from the order of this Court of June 5th, 1944, overruling the petition for review by the National Aircraft Corporation of the order made and entered by the Referee in Bankruptcy on May 3rd, 1944, approving and confirming the sale of the assets of the said bankrupt, which said order of the United States District Court of June 5th, 1944, adopted, approved and affirmed the finding and order made and entered by said Referee in Bankruptcy on the said 3rd day of May, 1944.

Pence-O'Neill-Diven, Anderson, Ind.,

P. B. O'Neill,

Geo. O. Durham,

Noah Weinstein,

*Attorneys for National Aircraft Corporation.*

6/29/44—Copy of notice of appeal mailed to Bamberger & Feibleman. Albert C. Sogemeier. FEK

106 The following is a copy of Assignment of Errors filed with the Clerk on June 29, 1944 by National Aircraft Corporation:

107 IN THE DISTRICT COURT OF THE UNITED STATES

\* \* (Caption—9401 B) \* \*

## ASSIGNMENT OF ERRORS.

Comes now National Aircraft Corporation, a corporation, appellant, and files this, its assignment of errors, complaining as follows:

1) That the said Court was without jurisdiction in making said order.

2) That prior to the entry of said order, the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri had, by lawful order, acquired and retained full and complete jurisdiction over the assets of the National Aircraft Corporation to the exclusion of all jurisdiction of this Court.

3) That the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri has sole and exclusive jurisdiction over the property and assets of the National Aircraft Corporation by virtue of reorganization proceedings pending before said Court and by reason thereof, the said United States District Court for the Southern District of Indiana, Indianapolis Division, was without authority or jurisdiction to enter its aforesaid order and said aforesaid order was and is void and in excess of the jurisdiction of said Court and in violation of and an infringement on and usurpation of the superior and superseding jurisdiction of the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, as conferred by the Chandler Act.

4) That the order appealed from operates to deny to the appellant due process of law and the equal protection of the law, contrary to the provisions of the Fifth Amendment to the Constitution of the United States, and denies to the appellant the benefits of the provisions of the Chandler Act, awarding to subsidiary corporations generally the privilege of reorganization in a common place with its parent corporation.

National Aircraft Corporation,

by

Pence, O'Neill & Diven, Anderson, Ind.

/s/ P. B. O'Neill,

/s/ Geo. O. Durham,

/s/ Noah Weinstein,

*Attorneys.*

109 The following is a copy of the Statement of Points filed with the Clerk on August 1, 1944 by National Aircraft Corporation:

110 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—9401 B) \* \*

STATEMENT OF POINTS TO BE RELIED UPON  
BY APPELLANT, NATIONAL AIRCRAFT CORPORATION, ON APPEAL.

(Filed Aug. 1, 1944. Albert C. Sogemeier, Clerk.

Comes now National Aircraft Corporation, a corporation, appellant, and respectfully states that it will, on its appeal from the order of the District Court made and entered on the 5th day of June, 1944, rely upon the following statement of points, namely:

1) That the said Court was without jurisdiction in making said order.

2) That prior to the entry of said order, the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, had, by lawful order, acquired and retained full and complete jurisdiction over the assets of the National Aircraft Corporation to the exclusion of all jurisdiction of this Court.

3) That the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri has sole and exclusive jurisdiction over the property and assets of the National Aircraft Corporation by virtue of reorganization proceedings pending before said Court and by reason thereof, and said United States District Court for the Southern District of Indiana, Indianapolis Division, was without authority or jurisdiction to enter its aforesaid order and said aforesaid order was and is void and in excess of the jurisdiction of said Court and in violation of and an infringement on and usurpation of the superior and superseding jurisdiction of the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, as conferred by the Chandler Act.

111. 4) That the order appealed from operates to deny to the appellant due process of law and the equal protection of the law, contrary to the provision of the Fifth

*Statement of Points.*

Amendment to the Constitution of the United States, and denies to the appellant the benefits of the provisions of the Chandler Act, awarding to subsidiary corporations generally the privilege of reorganization in a common place with its parent corporation.

National Aircraft Corporation  
by

Geo. O. Durham,  
Noah Weinstein,  
B. Sherman Landau,

*Attorneys.*

Copies of the above Statement of Points mailed, postage prepaid, this 31st day of July, 1944, to

James C. Sansberry, Trustee  
938 Meridian Street  
Anderson, Indiana

Conrad S. Arnkens  
Attorney at Law  
Citizens Bank Bldg.  
Anderson, Indiana

Bamberger & Feibleman  
Attorneys at Law  
901 Security Trust Bldg.  
Indianapolis, Indiana

Noah Weinstein.

112 The following are copies of Appeal Bonds filed with the Clerk on July 1, 1944 by Jerome F. Duggan, Trustee and National Aircraft Corporation:

113 Maryland Casualty Company,  
Baltimore.

In the United States District Court,

In the Matter of  
National Aircraft Corporation,  
a corporation bankrupt #9401,  
in bankruptcy.

We, the undersigned, undertake to pay the costs chargeable in the above-entitled appeal of bankruptcy cause without relief of valuation.

Witness our hands, this 29th day of June, 1944.

/s/ Jerome F. Duggan  
Jerome F. Dugan, *Trustee*  
National Aircraft Corporation.  
Maryland Casualty Company  
By /s/ John W. Brouwer.

(Seal)

*Attorney-in-fact.*

114 Maryland Casualty Company,  
Baltimore.

In the United States District Court,

In the matter of  
National Aircraft Corporation,  
a corporation bankrupt  $\neq 9401$ ,  
in bankruptcy.

We, the undersigned, undertake to pay the costs charge-  
able in the above-entitled appeal of bankruptcy cause  
without relief of valuation.

Witness our hands, this 29th day of June, 1944.

National Aircraft Corporation  
By /s/ J. M. Brown,  
*Secretary.*

Maryland Casualty Company  
By /s/ John W. Brouwer,

(Seal)

*Attorney-in-fact.*

115 The following is a copy of Appellants' Joint Designation of the Portions of the Record, Proceedings and Evidence to be Contained in the Record on Appeal filed with the Clerk on August 1, 1944:



116 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—9401 B) \* \*

**APPELLANTS' JOINT DESIGNATION OF THE  
PORTIONS OF THE RECORD, PROCEEDINGS  
AND EVIDENCE TO BE CONTAINED IN THE  
RECORD ON APPEAL.**

(Filed Aug. 1, 1944. Albert C. Sogemeier, Clerk.)

The following portions of the record, proceedings and evidence are hereby designated by the appellants, Jerome F. Duggan, Trustee of the estate of Christopher Engineering Company, a corporation, and Trustee of the estate of National Aircraft Corporation, a corporation, and National Aircraft Corporation, a corporation, as the portions of the record, proceedings and evidence to be contained in the record on their several appeals herein as follows:

1) The order of the United States District Court for the Southern District of Indiana, Indianapolis Division, of June 5, 1944.

2) The petition by National Aircraft Corporation for a review of the order of the Referee in Bankruptcy of May 3, 1944, which order approved a report filed by the Trustee concerning the sale of the assets of the bankrupt, which petition for review was filed in the office of the Referee in Bankruptcy.

3) Petition by Jerome F. Duggan, Trustee of the estate of Christopher Engineering Company, a corporation, and Trustee of the estate of National Aircraft Corporation, a corporation, pending in reorganization proceedings under Chapter X of the Bankruptcy Act in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri, for a review of the order of the Referee in Bankruptcy of May 3, 1944, which order approved a report filed by the Trustee concerning the  
117 sale of the assets of the bankrupt, which petition for review was filed in the office of the Referee in Bankruptcy.

4) Suggestion of Superseding Reorganization Proceedings and Motion to Stay Proceedings filed by Jerome F. Duggan, Trustee, in the United States District Court at Indianapolis, and exhibits attached thereto or filed there-

with, particularly those documents referred to in items No. 6 and No. 7 of this Designation.

5) Petition for Stay pending review by Judge filed by National Aircraft Corporation and by Jerome F. Duggan, Trustee, before the Referee in Bankruptcy.

6) The petition of the National Aircraft Corporation, subsidiary corporation's petition for reorganization, filed in the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri on April 19, 1944, a certified copy whereof is attached to the Suggestion of Superseding Reorganization Proceedings and Motion to Stay Proceedings referred to in paragraph 4 above.

7) The order of the United States District Court for the Eastern Division of the Eastern Judicial District of Missouri approving the petition for reorganization of National Aircraft Corporation, subsidiary, made and entered on April 19, 1944, and the return of the U. S. Marshal at Indianapolis of April 20, 1944, showing service of said order on James C. Sansberry, Trustee, and Samuel L. Winternitz & Company, a certified copy whereof is attached to the Suggestion of Superseding Reorganization Proceedings and Motion to Stay Proceedings referred to in paragraph 4 above.

8) Telegram of May 11, 1944, addressed to Hon. Robert C. Baltzell, Judge of the U. S. District Court, Hon. Carl Wilde, Referee in Bankruptcy, and to James C. Sansberry, signed by Jerome F. Duggan, Trustee, and Noah Weinstein, Attorney for National Aircraft Corporation.

9) Order of Carl Wilde, Referee in Bankruptcy, of May 3, 1944.

10) Notice of Appeal to Circuit Court of Appeals filed by Jerome F. Duggan, Trustee.

11) Notice of Appeal to Circuit Court of Appeals, filed by National Aircraft Corporation.

118 12) Assignment of Errors filed by National Aircraft Corporation.

13) Assignment of Errors filed by Jerome F. Duggan, Trustee.

14) Statement of Points to be Relied Upon filed by National Aircraft Corporation.

15) Statement of Points to be Relied Upon filed by Jerome F. Duggan, Trustee.

16) This Designation.

17) Order or orders extending time for filing transcript and docketing appeal.

18) Certificate of District Clerk to transcript of record.

Appellants desire a transcript of the abovementioned portions of the Court proceedings and evidence for the Clerk of the United States Circuit Court of Appeals and elect that the record in this instance be printed under the supervision of said Clerk.

Jerome F. Duggan, Trustee of the Estate of  
Christopher Engineering Company, a corporation  
by

Jerome F. Duggan.

Jerome F. Duggan, Trustee of the Estate of  
National Aircraft Corporation, a corporation  
by

Jerome F. Duggan.

National Aircraft Corporation  
by

Philip B. O'Neill,  
Geo. O. Durhan.,  
Noah Weinstein,  
B. Sherman Landau.

Copies of the above Designation mailed, postage prepaid,  
this 31st day of July, 1944, to:

James C. Sansberry, Trustee  
938 Meridian Street  
Anderson, Indiana

Conrad S. Arnkens  
Attorney at Law  
Anderson, Indiana  
(Citizens Bank Bldg.)

Bamberger & Feibleman  
Attorneys at Law  
901 Security Trust Bldg.  
Indianapolis, Indiana.

Noah Weinstein.

119 The following is a copy of Appellee's Designation of the Portions of Records, Proceedings and Evidence to be Contained in the Record for Appeal filed with the Clerk on August 5, 1944:

120. IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—9401 B)

**APPELLEE'S DESIGNATION OF THE PORTIONS  
OF RECORDS, PROCEEDINGS AND EVIDENCE  
TO BE CONTAINED IN THE RECORD FOR  
APPEAL.**

(Filed Aug. 5, 1944. Albert C. Sogemeier, Clerk.)

The following portions of the records, proceedings and evidence are hereby designated by appellee, James C. Sansberry, Trustee in Bankruptcy of National Aircraft Corporation, Bankrupt, as portions to be contained and included in the record of appeal of Jerome F. Duggan, Trustee of the Estate of Christopher Engineering Company, a corporation and Trustee of the Estate of National Aircraft Corporation, a corporation and National Aircraft Corporation, as follows:

1. The Certificate of Referee Carl Wilde on review, together with eleven items or exhibits submitted therewith and specified therein.

2. The order of Referee Carl Wilde, granting petitions for review, but denying the petition for stay filed by said appellants with said Referee.

3. This designation.

James C. Sansberry, Trustee in Bankruptcy  
of National Aircraft Corporation

By Bamberger & Feibleman,

By Isidore Feibleman,

Conrad S. Arnkens,

*Attorneys for said Trustee.*

Copies of the above Designation mailed, postage prepaid this 4th day of August, 1944, to:

Jerome F. Duggan, Wainwright Bldg.,

George O. Durham, 315 N. 7th St.,

Noah Weinstein, 705 Olive St.,

B. Sherman Landau, 705 Olive St.,

all of St. Louis, Missouri.

Pence, O'Neill & Diven, Anderson, Indiana,

*Appellant and Attorneys for Appellant.*

121 United States of America,  
Southern District of Indiana, }  
Indianapolis Division.

I, Albert C. Sogemeier, Clerk of the United States District Court in and for the Southern District of Indiana, do hereby certify that the above and foregoing is a true and full transcript of the record and proceedings in the Matter of National Aircraft Corporation, Bankrupt, No. 9401 in Bankruptcy, according to the Appellants' joint designation filed August 1, 1944 and Appellee's designation filed August 5, 1944, now remaining among the records of said Court in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Indianapolis, this 7th day of August, 1944.

Albert C. Sogemeier,

*Clerk, United States District Court  
Southern District of Indiana.*

(Seal)

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

I, Kenneth J. Carrick, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages contain a true copy of the printed record, printed under my supervision and filed on the twenty-eighth day of October, in:

In the Matter of

National Aircraft Corporation, a Corporation,  
Debtor.

Jerome F. Duggan, Trustee of the Estate of Christopher  
Engineering Company, a Corporation,  
*Appellant.*

*vs.*

No. 8655

James C. Sansberry, Trustee of the Estate of National  
Aircraft Corporation, a Corporation,  
*Appellee.*

National Aircraft Corporation, a Corporation,  
*Appellant.*

*vs.*

No. 8656.

James C. Sansberry, Trustee of the Estate of National  
Aircraft Corporation, a Corporation,  
*Appellee.*

as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 17th day of July, A. D. 1945.

(Seal) (Signed) Kenneth J. Carrick,  
Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.



At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, held in the City of Chicago, and begun on the twenty-eighth day of September, in the year of our Lord one thousand nine hundred and forty-three and of our Independence, the one hundred and sixty-eighth.

In the Matter of  
National Aircraft Corporation,  
a Corporation,  
Debtor.

Jerome F. Duggan, Trustee of the  
Estate of Christopher Engineering  
Company, a Corp.,  
Appellant,

8655 vs.

James C. Sansberry, Trustee of the  
Estate of National Aircraft Corporation, a Corp.,  
Appellee.

National Aircraft Corporation,  
a Corp.,  
Appellant

8656 vs.

James C. Sansberry, Trustee of the  
Estate of National Aircraft Corporation, a Corp.,  
Appellee.

Appeals from the  
District Court of  
the United States  
for the Southern  
District of Indiana,  
Indianapolis Division.

7

And, to-wit: On the tenth day of August, 1944, there was filed in the office of the Clerk of this Court, an Appearance of counsel for Appellant, which said appearance is in the words and figures following, to-wit:

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit,

Cause No. 8655.

Jerome F. Duggan, Trustee of Christopher Engineering Company, a corporation, and Trustee of National Aircraft Corporation, a corporation,

*Appellant,*

*vs.*

James C. Sansberry, Trustee of the Estate of National Aircraft Corporation, a corporation, Bankrupt.

The Clerk will enter our appearance as counsel for appellants.

Geo. O. Durham,  
315 N. Seventh St.,  
St. Louis 1, Mo.

Jerome F. Duggan,  
Wainwright Bldg.,  
St. Louis, Mo.

Noah Weinstein,  
705 Olive St.,  
St. Louis, Mo.

All notices may be mailed to Noah Weinstein, 705 Olive Street, St. Louis 1, Missouri, in order to avoid service of multiple copies on all counsel for appellants.

Endorsed: Filed August 10, 1944. Kenneth J. Carrick, Clerk.

And on the same day, to-wit: On the tenth day of August, 1944, there was filed in the office of the Clerk of this Court, an Appearance of counsel for Appellant, which said appearance is in the words and figures following, to-wit:

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

Cause No. 8656.

National Aircraft Corporation, a corporation,  
*Appellant.*  
*vs.*

James C. Sansberry, Trustee of the Estate of National Aircraft Corporation, a corporation, Bankrupt,  
*Appellee.*

The Clerk will enter our appearance as counsel for appellants.

Geo. O. Durham,  
315 N. Seventh St.,  
St. Louis 1, Mo.

Noah Weinstein,  
705 Olive St.,  
St. Louis, Mo.

Philip B. O'Neill,  
Anderson, Indiana.

All notices may be mailed to Noah Weinstein, 705 Olive Street, St. Louis 1, Missouri, in order to avoid service of multiple copies on all counsel for appellants.

Endorsed: Filed August 10, 1944. Kenneth J. Carrick,  
Clerk.

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And on the same day, to-wit: On the tenth day of August, 1944, there was filed in the office of the Clerk of this Court, an Appearance of counsel for Appellee, which said appearance is in the words and figures following, to-wit:

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

Cause No. 8655.

Jerome F. Duggan, Trustee of Christopher Engineering Company, a corporation, and Jerome F. Duggan, Trustee of National Aircraft Corporation, a corporation,  
*Appellants,*

*vs.*

James C. Sansberry, Trustee in Bankruptcy of National Aircraft Corporation, Bankrupt,  
*Appellee.*

The Clerk will enter our appearance as counsel for Appellee.

Ralph Bamberger,  
Isidore Feibleman,  
902 Security Trust Building,  
Indianapolis 4, Indiana.

Julian Bamberger,  
Charles B. Feibleman,  
902 Security Trust Building,  
Indianapolis 4, Indiana.

Conrad S. Arnkens,  
Citizens Bank Building,  
Anderson, Indiana.

Endorsed: Filed August 10, 1944. Kenneth J. Carrick,  
Clerk.

And on the same day, to-wit: On the tenth day of August, 1944, there was filed in the office of the Clerk of this Court, an Appearance of counsel for Appellee, which said appearance is in the words and figures following, to-wit:

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

Cause No. 8656.

National Aircraft Corporation, a corporation,  
*Appellant,*  
*vs.*

James C. Sansberry, Trustee in Bankruptcy of National  
Aircraft Corporation, Bankrupt,  
*Appellee.*

The Clerk will enter our appearance as counsel for Appellee.

Ralph Bamberger,  
Isidore Feibleman,  
902 Security Trust Building,  
Indianapolis 4, Indiana.

Julian Bamberger,  
Charles B. Feibleman,  
902 Security Trust Building,  
Indianapolis 4, Indiana.

Conrad S. Arnkens,  
Citizens Bank Building,  
Anderson, Indiana.

Endorsed: Filed August 10, 1944. Kenneth J. Carrick,  
Clerk.

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And afterwards, to-wit: On the sixth day of February, 1945, the following further proceedings were had and entered of record, to-wit:

Tuesday, February 6, 1945.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.  
Hon. J. Earl Major, Circuit Judge.  
Hon. Charles G. Briggles, District Judge.

In the Matter of  
National Aircraft Corporation,  
Debtor.

Jerome F. Duggan, Trustee, etc.,  
Appellant.  
8655 vs.

James C. Sansberry, Trustee, etc.,  
Appellee.

National Aircraft Corporation,  
Appellant.  
8656 vs.

James C. Sansberry, Trustee, etc.,  
Appellee.

Appeals from the  
District Court of  
the United States  
for the Southern  
District of Indiana,  
Indianapolis Division.

Now this day come the parties by their counsel, and this cause comes on to be heard on the transcript of the record and the briefs of counsel, and on oral argument by Mr. George O. Durham, counsel for appellants, and by Mr. Isidore Feibleman, counsel for appellee, and the Court takes this matter under advisement.

And afterwards, to-wit: On the twenty-first day of April, 1945, there was filed in the office of the Clerk of this Court, the Opinion of the Court, which said opinion is in the words and figures following, to-wit:



IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

OCTOBER TERM, 1944, APRIL SESSION, 1945.

In the Matter of  
NATIONAL AIRCRAFT CORPORATION,  
A Corporation,  
Debtor.

JEROME F. DUGGAN, Trustee of the  
Estate of Christopher Engineer-  
ing Company, A Corporation,  
*Appellant*,  
No. 8655 vs.

JAMES C. SANSBERRY, Trustee of the  
Estate of National Aircraft Cor-  
poration, A Corporation,  
*Appellee*.

NATIONAL AIRCRAFT CORPORATION,  
A Corporation,  
*Appellant*,  
No. 8656 vs.

JAMES C. SANSBERRY, Trustee of the  
Estate of National Aircraft Cor-  
poration, A Corporation,  
*Appellee*.

Appeals from the  
District Court of  
the United States  
for the Southern  
District of Indiana,  
Indianapolis Divi-  
sion.

April 21, 1945.

Before SPARKS and MAJOR, *Circuit Judges*, and BRIGGLE,  
*District Judge*.

SPARKS, *Circuit Judge*. This appeal is from an order of  
the District Court of the Southern District of Indiana en-  
tered on June 5, 1944. That order denied separate peti-

tions for review of a previous order, purporting to be presented by National Aircraft Corporation of Indiana, hereafter referred to as National, whose principal place of business and all of its assets are located in that State, and by James F. Duggan, Trustee of the estate of Christopher Engineering Company of Missouri, hereafter referred to as Christopher, whose principal place of business is St. Louis. The order sought to be reviewed was entered May 3, 1944, and confirmed a sale of National's major assets by Sansberry, its trustee in bankruptcy.

The issue here presented involves a clash of jurisdiction between the district courts of Southern Indiana, and the Eastern Division of the Eastern District of Missouri.

The principal question for our decision is whether the District Court of Missouri had jurisdiction on April 19, 1944, to decree as it did, "That the National Aircraft Corporation is a wholly owned subsidiary of the Christopher Engineering Company . . . the principal debtor herein, and is entitled to file its petition in these proceedings of the parent company," and to order appellee, the trustee appointed by the Indiana Court, to turn over all assets of National to a trustee appointed by itself. That question is to be decided from the following undisputed facts.

On December 27, 1943, Christopher filed its petition, in the District Court of Missouri, for reorganization under Chapter X of the Bankruptcy Act. The petition was approved by that court and Duggan was appointed trustee. The resolution relied upon as authority for filing such petition did not purport to be an act of that corporation. It was signed only by A. B. Christopher, President, and J. M. Brown, Vice-President, and the name of the Company nowhere appears with the other signatures. They therein described themselves as owning a majority of the shares of stock of the Christopher Company and as constituting a majority of its board of directors. They further described Joe Dubman as the minority of the Board of Directors, who, on account of his hostility to the majority of the Board, had instituted a suit in the Missouri State Court for the appointment of a receiver for that Company. Under those conditions they said it was impossible to hold a formal meeting of the directors or stockholders, and they therefore ordered themselves, or either one, as President or Vice-President respectively, of the Christopher Company,

to file that Company's petition for reorganization. The petition was signed by the debtor by A. B. Christopher, President, and verified by his oath.

On January 21, 1944, an involuntary petition in bankruptcy was filed against National in the District Court of Indiana, by certain of its creditors. On February 8, 1944, in that proceeding, National was adjudicated a bankrupt, an order of reference was made, and Sansberry was appointed receiver. On March 7, 1944, Sansberry was elected trustee by the creditors, took possession of the assets, and on March 21, 1944, he filed a petition before the Indiana referee to sell them. On April 6, 1944, the referee ordered the trustee to sell those assets on April 20, 1944.

J. M. Brown, a stockholder and director of Christopher, was also secretary of National when it was adjudicated a bankrupt. On April 19, 1944, he caused an intervening petition to be filed on behalf of National in Christopher's reorganization proceedings in Missouri, thereby seeking reorganization of National as a subsidiary of Christopher. That petition was signed "National Aircraft Corporation, a corporation, By J. M. Brown, Petitioner." It was verified by Brown's oath, which stated that he was Secretary of National, and that he was duly authorized to make the petition and affidavit in National's behalf. There was no showing as to how or by whom he was thus authorized. Moreover, the petition disclosed to that court that National had been adjudicated a bankrupt by the District Court in Indiana; that Sansberry had been appointed trustee, had taken possession of all the assets of National, and by order of that court had advertised a sale of such assets, beginning the next day at the debtor's place of business in Indiana, and that unless restrained by the District Court of Missouri, the sale would proceed as advertised. On the same day the District Court of Missouri found, "That the National Aircraft Corporation is a wholly owned subsidiary of the Christopher Engineering Company . . . the principal debtor herein, and is entitled to file its petition in these proceedings of its parent company." Thereupon the injunction issued on April 19, and was served upon Sansberry, Trustee, and his auctioneer the next morning at 9:30, the time scheduled for the sale to begin. The sale proceeded as advertised, a report thereof was made by the trustee to the referee on April 21, and it was approved by that referee on May 3, 1944.

On May 10, 1944, James F. Duggan as Trustee of the estate of Christopher, and Trustee of the estate of National (by virtue of the appointments of the District Court in Missouri) filed a petition in the District Court in Indiana to stay further proceedings in that court, and to set aside all orders made by it with respect to National on or after April 19, 1944. That court, as requested, reviewed such orders and confirmed the sale on June 5, 1944. Duggan, as Trustee of both debtors, gave notice of appeal.

It is conceded by appellants that the District Court in Indiana had jurisdiction of National and its assets prior to April 19, 1944. However, they contend that by virtue of section 129 of Chapter X of the Bankruptcy Act, 11 U. S. C. A. § 529, the jurisdiction in the Indiana Court terminated and became lodged in the District Court in Missouri, by reason of the latter's order on that date with respect to National's alleged petition for reorganization. Before there could be jurisdiction in the latter court, we think it must have been established that National was a subsidiary of Christopher, not only on April 19, 1944, but on December 27, 1943, when Christopher filed its petition for reorganization, and also on January 21, 1944, when the involuntary petition in bankruptcy against National was filed in Indiana. Unless it had such a status at the earlier dates, the fact that it became a subsidiary at the later date was insufficient under the applicable provisions of the Bankruptcy Act to confer jurisdiction upon the Missouri Court. These were jurisdictional facts, which of necessity must have been proved before the court in Missouri could possibly obtain jurisdiction of National, or oust the jurisdiction of the District Court in Indiana, and the burden was upon petitioners to establish those facts. This they did not do.

Appellants contend that National was a subsidiary of Christopher because the latter owned all of the former's capital stock having the power to vote for the election of directors. It is not denied that Christopher, or its trustee, received all such stock, if any, in its possession on April 19, 1944, from A. B. Christopher and J. M. Brown, who, prior to that time, held the majority stock in each corporation.

It is significant that the order of the court in Missouri does not state that Christopher owned any stock of National prior to April 19, 1944. Certainly Christopher, after

its petition for reorganization had been approved and a trustee appointed for its estate, would not be permitted to purchase stock of another corporation without that court's permission, even for the purpose of acquiring a subsidiary. No such order appears to have been made. It would also seem passing strange, after National had been adjudicated a bankrupt, to permit its majority stockholders to transfer their stock to another corporation in order to effectively create a subsidiary for the purpose of taking a change of venue on the alleged subsidiary's petition for reorganization, and that too when its assets had been advertised for sale without any suggestion whatever to either the court or the debtor's trustee in Indiana that it desired a reorganization.

On first thought it might seem a captious interpretation of the Missouri court's order to limit the beginning of the subsidiary relationship to April 19, 1944. However, that is the date selected by that court and we must presume that there was no evidence before it that the relationship existed earlier. If there is any doubt that the court meant what it said in that order, we call attention to further facts before us which seem to fully confirm our interpretation of it. We do not discuss the facts about to be related for the purpose of showing that the court in Missouri erred in deciding the merits of the petition, but rather for the purpose of showing that it was without jurisdiction to enter such order. Of course, if it had jurisdiction, it had the right to decide the merits regardless of whether that decision was right or wrong.

Christopher's petition for reorganization states among other matters that "The financial condition of your petitioner is fully set forth in the balance sheet as of September 30, 1943 \* \* \* annexed hereto and made a part hereof." This was Christopher's last balance sheet and it makes no mention of the debtor's ownership or control of any stock in the National Company, although it purports to set forth a complete list of its assets and liabilities.

On February 25, 1944, J. M. Brown filed his petition under oath with the District Court of Missouri in the proceedings for the reorganization of Christopher. That petition alleged that Brown was the owner of 288½ shares of no par value stock of National; that on or about the eighteenth day of January, 1944, Duggan, Trustee of Christopher, filed his petition for an order directing Brown and A. B.

Christopher to forthwith endorse, deliver and surrender to Duggan, Trustee, all of their stockholdings and stock certificates in National; that thereupon that court entered an order directing him to endorse, deliver and surrender his stockholdings to Duggan, Trustee, the order further providing that the delivery of the stock, pursuant to the order, should not in any way affect Brown's claim thereto. The petition further alleged that at the time of the entry of that order, Brown was not in the possession of his stock above referred to, for the reason that he had on or about November 29, 1943, endorsed and delivered his said stock to B. Sherman Landau as collateral security for a loan of \$6,000 made by Landau to Brown. It was further alleged that Landau complied with the above order and turned over and delivered the shares to Duggan, Trustee. The petition further stated that Brown was the absolute owner of the shares delivered by Landau, subject to the lien of Landau, and that Brown was entitled to immediate possession of them subject to Landau's lien. The petition prayed that the court enter its order finding that Brown was the sole owner of said shares of stock, subject only to Landau's lien, and that he was entitled to the possession of them, subject to that lien, and that Duggan, Trustee, be directed to forthwith deliver them to Brown, subject to that lien.

B. Sherman Landau was attorney for J. M. Brown when the latter filed National's petition for reorganization in Missouri. He also filed a separate petition before the District Court in Missouri on February 25, 1944, in which he stated substantially the same facts as set forth in Brown's petition just mentioned.

On the same date A. B. Christopher also filed his petition in the same court and proceedings, alleging his ownership of 288½ shares of National's stock, which petition was substantially identical with Brown's petition, with the exception that his stock had not been pledged to anyone as security. It asked for a return of the stock to himself.

It is significant that the affidavits of Brown and A. B. Christopher state that the trustee's petition for this order of transfer of stock was filed with the District Court in Missouri, and the order was entered on the very uncertain date of "on or about January 18, 1944." We are not informed as to whether the true date was before, on, or after January 21, the date when the creditors of National filed



their involuntary petition in bankruptcy. However, the order specifically provided that the delivery and surrender of such stock, endorsed by its then owners, would not in any way affect the endorser's claims thereto. The record is silent as to when the stock was endorsed and delivered to Duggan, Trustee, by either Brown, Landau or A. B. Christopher.

Furthermore, at the first meeting of National's creditors, on March 7, 1944, Brown was present and testified under oath. He said that National was originally organized with local capital at Elwood, Indiana, and that in December, 1942, he and A. B. Christopher purchased all of its capital stock; that while the certificates were turned over to Duggan, Trustee of A. B. Christopher in a reorganization proceeding in St. Louis, there was no reason that he knew why such capital should be considered as the property of Christopher Company instead of himself and A. B. Christopher individually. When asked whether National was insolvent at that time, in the sense that the aggregate of its liabilities was in excess of its assets, he answered "It looks to me like it is insolvent, but I would not care to express myself." He then said that his stock in National was then in his name, and not in the name of Christopher Engineering Company, but that he had pledged it to Landau to secure a debt, putting up the stock as collateral. He made no objection to the appointment of a trustee for National.

Under these facts we are convinced that the District Court in Missouri, by its order of April 19, 1944, intended to limit the beginning of the subsidiary relation of National to that date, presumably when the stock was actually endorsed and delivered to Duggan, Trustee.

As we construe the Bankruptcy Act, after a debtor has been adjudged a bankrupt or its petition for reorganization has been approved, and its property has been turned over to a trustee, its activities with respect to its property are extremely limited. We know of nothing it can do without permission of the court which has rightfully assumed jurisdiction. It is contended by appellants, however, that under section 529, after it has been adjudicated a bankrupt and its property transferred to a trustee, it may file a petition for reorganization in any district court where its parent corporation resides. We are convinced that this is not a proper interpretation of section 529.

Sub-Chapter IV of Chapter X deals with the petition for reorganization, including the right to file and the venue. 11 U. S. C. A. sections 526-529. They should be construed together.<sup>1</sup>

Section 526 merely provides that a corporate debtor or its creditors may file a petition for reorganization of such debtor, providing there is no pending petition for reorganization of the same debtor.

Section 527 provides that *if there is a bankruptcy proceeding pending* against the debtor corporation, and we take this to mean an insolvent debtor against or by whom no petition for reorganization has yet been filed, then and in that event such a petition may be filed in that proceeding, either before or after adjudication.

Section 528 provides that *if no bankruptcy proceeding is pending* against the debtor corporation, and we construe this is to refer to *any* bankruptcy proceeding, then and in that event an *original* petition may be filed with the court in whose territorial jurisdiction the corporation has had its principal place of business or its principal assets for the preceding six months.

If a corporation be a subsidiary, as provided in section 529, an *original* petition for reorganization may be filed by or against the debtor corporation as provided in section 528, or in the court which has approved the parent company's petition for reorganization.

It will be noted that section 528 deals only with estates

1. Section 526. Filing petition: persons entitled.

A corporation, or three or more creditors \* \* (having claims aggregating \$5000 or more, liquidated as to amount and not contingent as to liability) \* \* \* may, if no other petition by or against such corporation is pending under this chapter, file a petition under this chapter.

Section 527. Same: pending bankruptcy proceeding.

A petition may be filed in a pending bankruptcy proceeding either before or after the adjudication of a corporation.

Section 528. Same: original petition.

If no bankruptcy proceeding is pending, an original petition may be filed with the court in whose territorial jurisdiction the corporation has had its principal place of business or its principal assets for the preceding six months or for a longer portion of the preceding six months than in any other jurisdiction.

Section 529. Same: subsidiary corporation.

If a corporation be a subsidiary, an original petition by or against it may be filed either as provided in section 528 of this title or in the court which has approved the petition by or against its parent corporation.

where no bankruptcy proceeding of any kind is pending. In that event an *original* petition is permitted to be filed by the debtor or by its creditors. We interpret this to mean that the petition should be an original one, in the sense that no other petition in bankruptcy is pending in any jurisdiction with respect to the debtor's estate. No other interpretation has been suggested. Section 529 contains the same word presumably with the same intended meaning, otherwise the sentence would express an absurdity, because section 528 deals only with estates where no bankruptcy proceeding is pending with respect to such estate. Appellants contend that National was authorized and chose to file its alleged petition under section 529 rather than section 528. However, it is clear there was no authority to choose nor was a choice of jurisdiction made, for National could not then have filed under section 528, because there was then pending in Indiana an involuntary proceeding in bankruptcy against it; and for the further reason that its alleged petition for reorganization in Missouri was not an *original* one as required by both sections 528 and 529.

The cited sections of the statute seem to fully cover every conceivable contingency pertaining to the venue of a petition for reorganization of a corporation, and we think our interpretation of them gives full force to each phrase and clause thereof. It is apparent that appellants' interpretation does not do this. True, section 529 does not contain the words found in section 528—"If no bankruptcy proceeding is pending." However, we think the substance of this limitation is contained in section 529, by the requirement that the petition shall be an original one. Such construction gives full effect to every word of the Act, and expresses what we consider the clear intention of Congress.

Moreover, section 529 was not available to either the alleged parent company or its stockholders, or to the stockholders of National, although they seem to have actuated these issues. It was available only to National, because it was the alleged petitioner. National's name, of course, appears as a signature to the petition, but it was placed there by Brown, not as a director, nor as a stockholder, nor as any other officer of National, but as "Petitioner." In that petition he does not claim to be a stockholder, nor an agent authorized by National, nor by the District Court of Southern Indiana, to sign or file it. True, in the jurat of the

petition he says he is Secretary of National, but he nowhere states or claims that he had authority to file the petition by reason of that fact. Moreover, at the time the District Court in Missouri sought to assume jurisdiction of the petition, and oust the District Court of Indiana of its jurisdiction, and enjoined its referee and other officers from further proceedings in this matter, there were pending in the court in Missouri, the claims under oath of Brown, and A. B. Christopher, asserting sole ownership and the right to possession of the 577 shares of National's stock, which had been endorsed and delivered to Duggan, Trustee in Missouri, with the understanding that such endorsement and delivery would not in any way affect the endorser's claims thereto. It is not here denied that this is the alleged transfer of stock upon which appellants rely to establish the subsidiary relationship of National. It seems to us that one of two things is true, and in either case the court in Missouri had no authority to assume jurisdiction of National. If Christopher did not become the rightful owner of this stock by such transfer, then National did not become its subsidiary, and was not authorized to file its alleged petition. On the other hand, if this stock was in good faith actually endorsed and delivered and the ownership transferred to Duggan, Trustee, then Brown had no authority, disclosed by this evidence, to file National's petition for reorganization.

Under the facts presented by this record, we are convinced that appellee, an officer appointed by the District Court of Indiana and acting under its orders; had no reason to disregard those orders and obey the orders of the Missouri court which acted without statutory authority in entering such orders.

The order is

**AFFIRMED.**

MAJOR, *Circuit Judge*, concurring. I concur in the view that the order appealed from should be affirmed. As pointed out by Judge Sparks, the District Court of Indiana properly acquired jurisdiction of National and concededly retained such jurisdiction until April 19, 1944. If the Indiana court lost jurisdiction at that or any subsequent time, it was because of the alleged filing by National of its petition for reorganization in the St. Louis court under Sec. 529, relating to a subsidiary corporation. The burden rested upon appellant to show that National was a subsidiary of Christopher on December 27, 1943,

when Christopher filed its petition for reorganization in that court. Appellant failed to carry the burden in this respect. The most that the finding of the St. Louis court discloses is that National was a subsidiary on April 19, 1944. For aught that the record of that court discloses, National might have become a subsidiary just prior to the entry of that order. A showing based upon such a finding did not deprive the Indiana court of jurisdiction; in fact, it had no right to relinquish jurisdiction. It therefore appears to me as being unnecessary to decide whether the Indiana court would have lost jurisdiction had there been a showing that National was a subsidiary of Christopher at the time the latter's petition for reorganization was filed in the St. Louis court.

BRIGGLE, *District Judge*, dissenting. The question for decision here is of much broader import than the mere determination of the propriety of the sale of assets of a bankrupt and involves, as the opinion of the Court states, a question of conflicting jurisdiction between two District Courts. The opinion holds that the Missouri Court was without jurisdiction, under the facts disclosed, to receive National Aircraft Corporation on April 19, 1944, for reorganization in the proceedings then pending in the Missouri Court for reorganization of the Christopher Engineering Company, alleged to be the parent company. This conclusion seems to be bottomed upon two principal bases:—1. That National failed to establish in the Missouri Court that it was a subsidiary of Christopher within the meaning of the bankruptcy act, and, 2. That in any event National being involved in liquidation proceedings in the Indiana Court is without legal authority to petition for reorganization in the Missouri Court. I cannot subscribe to either proposition.

*First.* Whether National was a subsidiary of Christopher is a fact question never an issue in the Indiana Court, but a question properly before the Missouri Court. Stock ownership in National never became important in the liquidation proceedings in Indiana, as it early became obvious that upon liquidation there would be insufficient assets to pay creditors. Upon the filing of National's petition in Missouri, however, the question of stock ownership immediately became an issue. I, therefore, look no further on this question than the findings and order of the Missouri Court. On National's petition for intervention



and reorganization that Court found: "That the National Aircraft Corporation is a wholly owned subsidiary of the Christopher Engineering Company, a corporation, the principal debtor herein, and is entitled to file its petition in these proceedings of its parent company. . . . That said petition of National Aircraft Corporation complies with the requirements of Chapter Ten of the Bankruptcy Act. That said petition . . . has been filed in good faith." Upon these and other findings the Missouri Court proceeded to approve the petition, entered upon the process of reorganization, and among other things enjoined the sale of National's assets in Indiana. The record does not disclose upon what evidence the Missouri Court acted and with that I think we are not concerned. The findings are sufficiently broad to support the Court's conclusion of law that National had complied with the Act. The opinion is pregnant with a recital of facts reflecting upon the integrity of the findings of the Missouri Court, all of which I respectfully submit are irrelevant in the consideration of the questions before us. If the Missouri Court acted improvidently or reached erroneous conclusions of fact or law that was a matter to be challenged by direct appeal and not a matter for collateral consideration by the Indiana Court or by this Court. It is my judgment that we must give full faith to the findings and order of the Missouri Court.

*Second.* The framers of the 1938 revision of the Bankruptcy Act (commonly called the Chandler Act) had many objectives, not least of which was the reconstruction of failing businesses and avoidance of the drastic deflationary effect of liquidation upon the public economy as a whole. It cannot be denied but that it was the intention to lay the framework for rehabilitation where possible rather than liquidation. See commentary on Chandler Act, 11 U. S. C. A., *ante* 201. With this in mind it is pertinent to note certain sections of Chapter 10 dealing with corporate reorganizations. Section 126 of the Act (11 U. S. C. A. 526) provides for the filing of a petition for reorganization by the corporation (or creditors under some circumstances) where no other petition by or against such corporation is pending under Chapter 10. It is to be noted that a "petition" means a petition under Chapter 10. See Section 106 (9) (11 U. S. C. A. 506). Section 127 of the Act (11 U. S. C. A. 527) then provides that a petition may be filed in a pending bankruptcy proceeding

either before or after adjudication. The pending proceedings of course refers to proceedings under the liquidation provisions and not the reorganization provisions. Section 128 (11 U. S. C. A. 528) provides for the filing of an *original* petition for reorganization where no bankruptcy proceedings are pending, in the territorial jurisdiction of a court where the corporation has had its principal place of business or principal assets for the major part of the preceding six months. Section 129 (11 U. S. C. A. 529) provides that if a corporation be a subsidiary an original petition may be filed by or against it as provided in Section 128 or *in the Court which has approved the petition by or against its parent corporation.*

Assuming that National was in fact a subsidiary of Christopher as the Missouri Court has found, we find that the facts of our case fit perfectly into the legislative scheme as exemplified in the Chandler Act. The Missouri Court had in December, 1943, taken jurisdiction of Christopher, the parent corporation, for reorganization. National, the subsidiary, on April 19, 1944, under Section 129, intervened and asked for reorganization with its parent. That certain creditors of National had in January, 1944, invoked the jurisdiction of the Indiana Court for liquidation of National is of no moment—indeed the Act expressly contemplates that reorganization proceedings may be invoked in behalf of a corporation already in bankruptcy and following adjudication. This right seems to be unconditional and not limited as to time. The reorganization proceedings could, under Section 127 have been had in the Indiana Court; they could, under Section 129, have been had in either the Indiana Court or the Missouri Court. National, being under no compulsion or restraint in this respect, elected to file in Missouri. The Missouri Court, upon assuming jurisdiction of National, was bound, if reorganization of National was to be more than a mere gesture, to take immediate steps to preserve its assets. The usual concepts of *comity* between courts have no application to such a situation; neither can it be said that concurrent jurisdiction exists under such circumstances between the liquidating court and the reorganization court, inviting application of General Order 6 (11 U. S. C. A. foll. 53). Neither does Section 32 of the Act (11 U. S. C. A. 55) dealing with instances where petitions have been filed in two different courts, have any application under the facts here. We are concerned here with but one liqui-



ation proceeding and one reorganization proceeding. The former in Indiana, the latter in Missouri.

The spirit and purpose of the reorganization provisions of the Act would be thwarted if the Indiana Court were to be permitted to review the findings of the Missouri Court—and this follows even though, as here, the Indiana Court had jurisdiction of National under the general bankruptcy section of the Act and was proceeding in good faith in its liquidation. Ordinary bankruptcy contemplates sale of assets and liquidation for the benefit of creditors, while the reorganization provisions of Chapter 10 head in directly the opposite direction and contemplate preservation of assets, even to the extent of returning them to the debtor under some circumstances. Congress was diligent in its undertaking to give the reorganization Court a free hand. Section 111 of the Act (11 U. S. C. A. 511) provides for exclusive jurisdiction; Section 113 (11 U. S. C. A. 513) clothes the reorganization court with power to stay all other proceedings concerning debtor; Section 148 (11 U. S. C. A. 548) makes the order approving the petition an automatic stay of other proceedings, including a pending bankruptcy and Section 149 (11 U. S. C. A. 549) provides that when such order shall become final it shall constitute a conclusive determination of jurisdiction. See *Re Park Beach Hotel*, 96 Fed. (2) 886 (77B), *Re Maier Brewing Co.*, 38 Fed. Supp. 806.

The wisdom of permitting a subsidiary corporation, whose principal place of business and assets are located in Indiana, to intervene in the court having jurisdiction for reorganization of its parent company is not before us; that has, as I think, been clearly determined by Congress. The challenge that the petition of the subsidiary may have been conceived in iniquity and founded upon fraud is, likewise, not before us. We are not reviewing the findings of the Missouri court which has found to the contrary and which has, by its orders, sought to gain control of the assets of the subsidiary. We are only called upon to review the propriety of an order approving the sale of assets of the subsidiary in Indiana, where such sale had been enjoined by the Missouri court. Under such circumstances I think our duty is not in doubt. The jurisdiction of the Missouri court for purposes of reorganization is paramount and cannot here be challenged. Indiana must, in my judgment, yield to Missouri.

Endorsed: Filed April 21, 1945. Kenneth J. Carrick, Clerk.

And on the same day, to-wit: On the twenty-first day of April, 1945, the following further proceedings were had and entered of record, to-wit:

Saturday, April 21, 1945.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.  
Hon. J. Earl Major, Circuit Judge.  
Hon. Charles G. Briggles, District Judge.

In the Matter of

National Aircraft Corporation,  
Debtor.

Jerome F. Duggan, Trustee, Estate  
of Christopher Engineering Co.,  
*Appellant,*

8655

vs.

James C. Sansberry, Trustee, Es-  
tate of National Aircraft Corp.,  
*Appellee.*

Appeal from the Dis-  
trict Court of the  
United States for  
the Southern Dis-  
trict of Indiana,  
Indianapolis Divi-  
sion.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Southern District of Indiana, Indianapolis Division, and was argued by counsel.

On consideration whereof, it is ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause appealed from be, and the same is hereby, affirmed, with costs.

In the Matter of  
National Aircraft Corporation,  
Debtor.

National Aircraft Corporation,  
*Appellant,*  
8656                      *vs.*

James C. Sansberry, Trustee, Es-  
tate of National Aircraft Corpo-  
ration,  
*Appellee.*

} Appeal from the Dis-  
trict Court of the  
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trict of Indiana,  
Indianapolis Divi-  
sion.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Southern District of Indiana, Indianapolis Division, and was argued by counsel.

On consideration whereof, it is ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause appealed from be, and the same is hereby, affirmed, with costs.

And afterwards, to-wit: On the seventh day of May, 1945, there was filed in the office of the Clerk of this Court, a Petition for Rehearing, which said petition is not copied herein.

And afterwards, to-wit: On the twenty-eighth day of May, 1945, there was filed in the office of the Clerk of this Court, an Answer to Petition for Rehearing, which said answer is not copied herein.

And afterwards, to-wit: On the eleventh day of June, 1945, the following further proceedings were had and entered of record, to-wit:

Monday, June 11, 1945.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.

Hon. J. Earl Major, Circuit Judge.

Hon. Charles G. Briggie, District Judge.

In the Matter of  
National Aircraft Corporation,  
Debtor.

Jerome F. Duggan, Trustee, etc.,  
Appellant  
8655 vs.

James C. Sansberry, Trustee, etc.,  
Appellee.

National Aircraft Corporation,  
Appellant  
8656 vs.

James C. Sansberry, Trustee, etc.,  
Appellee.

Appeals from the  
District Court of  
the United States  
for the Southern  
District of Indiana,  
Indianapolis Division.

It is ordered by the Court that the petition for a rehearing of this cause be, and the same is hereby, denied, Briggie, D. J., dissenting.

And afterwards, to-wit: On the twenty-second day of June, 1945, there was filed in the office of the Clerk of this Court, a Petition for Stay of Mandate, which said petition is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

In the Matter of:

National Aircraft Corporation,  
a corporation,

Debtor,

Jerome F. Duggan, Trustee of the  
Estates of Christopher Engi-  
neering Company, a corpora-  
tion, and National Aircraft Cor-  
poration, a corporation,*Appellant.*

No. 8655.

*vs.*James C. Sansberry, Trustee of  
the Estate of National Aircraft  
Corporation, a corporation,*Appellee.*National Aircraft Corporation,  
a corporation,*Appellant.*

No. 8656.

*vs.*James C. Sansberry, Trustee of  
the Estate of National Aircraft  
Corporation, a corporation,*Appellee.*Appeals from the  
District Court of  
the United States  
for the Southern  
District of Indi-  
ana, Indianapolis  
Division, Honora-  
ble Robert C. Balt-  
zell, Judge.PETITION OF APPELLANTS FOR STAY OF  
MANDATE.

To the Honorable Judges of Said Court:

Jerome F. Duggan, George O. Durham and Noah Wein-  
stein respectfully show to the Court:(1) That they are attorneys for the appellants in the  
above-entitled cause.

(2) That appellants intend to apply to the Supreme Court of the United States for certiorari to review the judgment of this Honorable Court heretofore entered in the above cause.

Wherefore, your petitioners respectfully pray that this Court stay its mandate pending such application.

Jerome F. Duggan,  
George O. Durham,  
Noah Weinstein.

State of Missouri, }  
City of St. Louis. } ss.

Noah Weinstein, being duly sworn on his oath, states that he is one of the petitioners in the foregoing petition, that he has read the same and that the facts therein set forth are true, that he has served this petition upon opposing counsel by mailing copies of same to attorneys for the appellee at Indianapolis and Anderson, Indiana.

(Seal)

Noah Weinstein.

Subscribed and sworn to before me this 21st day of June, 1945.

B. Sherman Landau,  
*Notary Public.*

My commission expires July 28, 1947.

Endorsed: Filed June 22, 1945. Kenneth J. Carrick,  
Clerk.

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And on the same day, to-wit: On the twenty-second day of June, 1945, the following further proceedings here had and entered of record, to-wit:

Friday, June 22, 1945.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.

In the Matter of

National Aircraft Corporation,  
Debtor.

Jerome F. Duggan, Trustee, etc.,  
*Appellant*,

8655                      *vs.*

James C. Sansberry, Trustee, etc.,  
*Appellee*.

National Aircraft Corporation,  
*Appellant*

8656                      *vs.*

James C. Sansberry, Trustee, etc.,  
*Appellee*.

Appeals from the  
District Court of  
the United States  
for the Southern  
District of Indiana,  
Indianapolis Division.

On motion of counsel for appellants, it is ordered that the issuance of the mandate of this Court in these causes be, and the same is hereby, stayed pursuant to Rule 25 of the Rules of this Court.



UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

I, Kenneth J. Carrick, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages contain a true copy of proceedings had and papers filed, excepting briefs of counsel and motions and orders relative to filing record and briefs, in:

In the Matter of

National Aircraft Corporation, a Corporation,  
Debtor.

Jerome F. Duggan, Trustee of the Estate of Christopher Engineering Company, a Corporation,  
*Appellant,*

*vs.*

No. 8655.

James C. Sansberry, Trustee of the Estate of National Aircraft Corporation, a Corporation,  
*Appellee.*

National Aircraft Corporation, a Corporation,  
*Appellant,*

*vs.*

No. 8656.

James C. Sansberry, Trustee of the Estate of National Aircraft Corporation, a Corporation,  
*Appellee.*

as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 17th day of July, A. D. 1945.

(Seal) (Signed) Kenneth J. Carrick,  
Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.

## SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1945

No. 418

## ORDER ALLOWING CERTIORARI—Filed November 5, 1945

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Jackson took no part in the consideration or decision of this application.

## SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1945

No. 419

## ORDER ALLOWING CERTIORARI—Filed November 5, 1945

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Jackson took no part in the consideration or decision of this application.